

2020
CUMULATIVE SUPPLEMENT
TO
MISSISSIPPI CODE

1972 ANNOTATED

Issued December 2020

**CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2020 REGULAR SESSION
OF THE LEGISLATURE**

**PUBLISHED BY AUTHORITY OF
THE LEGISLATURE**

SUPPLEMENTING

Volume 14A

Titles 67 to 69
(As Revised 2012)

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By the Editorial Staff of the Publisher



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In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations in collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are used to create annotations in this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online at LexisNexis, is that the most recent cases annotated may not yet have prior reporter citations. These will be provided, as they become available, through later editions.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and from decisions of appropriate federal courts. These cases will be printed in the appropriate reporter.

Southern Reporter, 3rd Series

United States Supreme Court Reporter

Supreme Court Reporter

United States Supreme Court Reports, Lawyers Edition, 2d Series

Federal Reporter, 3rd Series

Federal Supplement, 3rd Series

Federal Rules Decisions

Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series

American Law Reports, Federal 3d

Mississippi College Law Review

Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

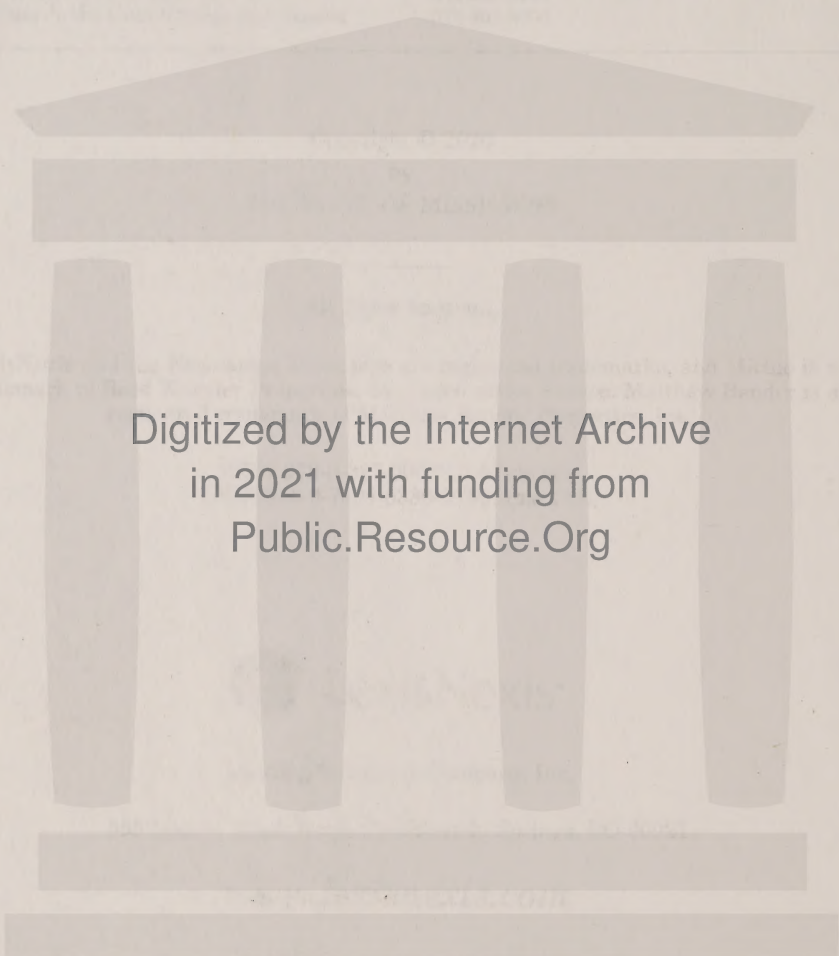
Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and sections of repealed sections, provide information as to portions of repealed acts that have not been codified, or explain other pertinent information.

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1892, an annotated User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



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PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

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PUBLISHER'S FOREWORD

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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December 2020

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SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 67. ALCOHOLIC BEVERAGES

CHAPTER 1. Local Option Alcoholic Beverage Control

SEC.

- 67-1-46. Certain holders of manufacturer's distiller's permits authorized to provide limited amounts of alcoholic beverages on premises for tasting or sampling subject to certain conditions.
- 67-1-52. Holder of package retailer's permit authorized to conduct tasting or sampling events subject to certain conditions.
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- 67-3-48. Retail sale of light wine or beer produced by small craft brewery.
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- 69-25-221. Necessity of surety bond.
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ALCOHOLIC BEVERAGES

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CHAPTER 1.

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§ 67-1-3. Prohibition reannounced as law of State; exception as to possession of alcoholic beverages.

The policy of this state is reannounced in favor of prohibition of the manufacture, sale, distribution, and transportation of alcoholic beverages; and the provisions against such manufacture, sale, distribution, and transportation of alcoholic beverages, as contained in Chapter 31 of Title 97, Mississippi Code of 1972 and elsewhere, are hereby redeclared the law of this state. The purpose and intent of this chapter is to vigorously enforce the prohibition laws throughout the state, except in those counties and municipalities voting themselves out from under the prohibition law in accordance with the provisions of this chapter, and, in those counties and municipalities, to require strict regulation and supervision of the manufacture, sale, distribution, and transportation of intoxicating liquor under a system of state licensing of manufacturers, wholesalers and retailers, which licenses shall be subject to revocation for violations of this chapter. However, from and after January 1, 2021, prohibition is renounced as to the possession of alcoholic beverages. It shall thereafter be lawful to possess alcoholic beverages throughout the state, unless otherwise prohibited in this chapter. Nothing herein shall be construed to make lawful the possession of alcoholic beverages with the intent to sell except as authorized under this chapter.

All laws and parts of laws in conflict with this chapter are repealed only to the extent of such conflict; however, except as is provided in this chapter, all laws prohibiting the manufacture, sale, and distribution of alcoholic beverages, which are not in conflict with this chapter shall remain in full force and effect, and all such laws shall remain in full force and effect in counties and municipalities wherein the manufacture, sale, and distribution of alcoholic beverages has not been authorized as a result of an election held under Section

67-1-11 or Section 67-1-14, Mississippi Code of 1972, or as otherwise provided in this chapter.

HISTORY: Codes, 1942, §§ 10265-01, 10265-36; Laws, 1966, §§ 1, 36; Laws, 1990, ch. 569, § 2, eff from and after passage (approved April 9, 1990); Laws, 2020, ch. 423, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in the first paragraph, deleted “possession” preceding “and transportation” three times in the first two sentences, substituted “alcoholic beverages” for “intoxicating liquor” twice in the first sentence, and added the last three sentences; and in the last paragraph, inserted “and” preceding “distribution” and deleted “and possession” thereafter.

§ 67-1-5. Definitions.

For the purposes of this chapter and unless otherwise required by the context:

(a) “Alcoholic beverage” means any alcoholic liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include light wine, light spirit product and beer, as defined in Section 67-3-3, Mississippi Code of 1972, but shall include native wines. The words “alcoholic beverage” shall not include ethyl alcohol manufactured or distilled solely for fuel purposes or beer of an alcoholic content of more than eight percent (8%) by weight if the beer is legally manufactured in this state for sale in another state.

(b) “Alcohol” means the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.

(c) “Distilled spirits” means any beverage containing more than four percent (4%) of alcohol by weight produced by distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.

(d) “Wine” or “vinous liquor” means any product obtained from the alcoholic fermentation of the juice of sound, ripe grapes, fruits, honey or berries and made in accordance with the revenue laws of the United States.

(e) “Person” means and includes any individual, partnership, corporation, association or other legal entity whatsoever.

(f) “Manufacturer” means any person engaged in manufacturing, distilling, rectifying, blending or bottling any alcoholic beverage.

(g) “Wholesaler” means any person, other than a manufacturer, engaged in distributing or selling any alcoholic beverage at wholesale for delivery within or without this state when such sale is for the purpose of resale by the purchaser.

(h) “Retailer” means any person who sells, distributes, or offers for sale or distribution, any alcoholic beverage for use or consumption by the purchaser and not for resale.

(i) “State Tax Commission,” “commission” or “department” means the Department of Revenue of the State of Mississippi, which shall create a

division in its organization to be known as the Alcoholic Beverage Control Division. Any reference to the commission or the department hereafter means the powers and duties of the Department of Revenue with reference to supervision of the Alcoholic Beverage Control Division.

(j) "Division" means the Alcoholic Beverage Control Division of the Department of Revenue.

(k) "Municipality" means any incorporated city or town of this state.

(l) "Hotel" means an establishment within a municipality, or within a qualified resort area approved as such by the department, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations. Hotels in towns or cities of more than twenty-five thousand (25,000) population are similarly defined except that they must have fifty (50) or more sleeping rooms. Any such establishment described in this paragraph with less than fifty (50) beds shall operate one or more regular dining rooms designed to be constantly frequented by customers each day. When used in this chapter, the word "hotel" shall also be construed to include any establishment that meets the definition of "bed and breakfast inn" as provided in this section.

(m) "Restaurant" means:

(i) A place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation, which has suitable seating facilities for guests, and which has suitable kitchen facilities connected therewith for cooking an assortment of foods and meals commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. Except as otherwise provided in this paragraph, no place shall qualify as a restaurant under this chapter unless twenty-five percent (25%) or more of the revenue derived from such place shall be from the preparation, cooking and serving of meals and not from the sale of beverages, or unless the value of food given to and consumed by customers is equal to twenty-five percent (25%) or more of total revenue; or

(ii) Any privately owned business located in a building in a historic district where the district is listed in the National Register of Historic Places, where the building has a total occupancy rating of not less than one thousand (1,000) and where the business regularly utilizes ten thousand (10,000) square feet or more in the building for live entertainment, including not only the stage, lobby or area where the audience sits and/or stands, but also any other portion of the building necessary for the operation of the business, including any kitchen area, bar area, storage area and office space, but excluding any area for parking. In addition to the other requirements of this subparagraph, the business must also serve food to guests for compensation within the building and derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales to live entertainment in the building, and

from the rental of all or part of the facilities of the business in the building to another party for a specific event or function.

(n) "Club" means an association or a corporation:

(i) Organized or created under the laws of this state for a period of five (5) years prior to July 1, 1966;

(ii) Organized not primarily for pecuniary profit but for the promotion of some common object other than the sale or consumption of alcoholic beverages;

(iii) Maintained by its members through the payment of annual dues;

(iv) Owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests;

(v) The affairs and management of which are conducted by a board of directors, board of governors, executive committee, or similar governing body chosen by the members at a regular meeting held at some periodic interval; and

(vi) No member, officer, agent or employee of which is paid, or directly or indirectly receives, in the form of a salary or other compensation any profit from the distribution or sale of alcoholic beverages to the club or to members or guests of the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the board of directors or other governing body out of the general revenues of the club.

The department may, in its discretion, waive the five-year provision of this paragraph. In order to qualify under this paragraph, a club must file with the department, at the time of its application for a license under this chapter, two (2) copies of a list of the names and residences of its members and similarly file, within ten (10) days after the election of any additional member, his name and address. Each club applying for a license shall also file with the department at the time of the application a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

(o) "Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or attractions, or because of other attributes which regularly and customarily appeal to and attract tourists, vacationists and other transients in substantial numbers; however, no area or locality shall so qualify as a resort area until it has been duly and properly approved as such by the department. The department may not approve an area as a qualified resort area after July 1, 2018, if any portion of such proposed area is located within two (2) miles of a convent or monastery that is located in a county traversed by Interstate 55 and U.S. Highway 98. A convent or monastery may waive such distance restrictions in favor of allowing approval by the department of an area as a qualified resort area. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer

of the convent or monastery having the authority to execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

(i) The department may approve an area or locality outside of the limits of an incorporated municipality that is in the process of being developed as a qualified resort area if such area or locality, when developed, can reasonably be expected to meet the requisites of the definition of the term "qualified resort area." In such a case, the status of qualified resort area shall not take effect until completion of the development.

(ii) The term includes any state park which is declared a resort area by the department; however, such declaration may only be initiated in a written request for resort area status made to the department by the Executive Director of the Department of Wildlife, Fisheries and Parks, and no permit for the sale of any alcoholic beverage, as defined in this chapter, except an on-premises retailer's permit, shall be issued for a hotel, restaurant or bed and breakfast inn in such park.

(iii) The term includes:

1. The clubhouses associated with the state park golf courses at the Lefleur's Bluff State Park, the John Kyle State Park, the Percy Quin State Park and the Hugh White State Park;

2. The clubhouse and associated golf course, tennis courts and related facilities and swimming pool and related facilities where the golf course, tennis courts and related facilities and swimming pool and related facilities are adjacent to one or more planned residential developments and the golf course and all such developments collectively include at least seven hundred fifty (750) acres and at least four hundred (400) residential units;

3. Any facility located on property that is a game reserve with restricted access that consists of at least three thousand (3,000) contiguous acres with no public roads and that offers as a service hunts for a fee to overnight guests of the facility;

4. Any facility located on federal property surrounding a lake and designated as a recreational area by the United States Army Corps of Engineers that consists of at least one thousand five hundred (1,500) acres;

5. Any facility that is located in a municipality that is bordered by the Pearl River, traversed by Mississippi Highway 25, adjacent to the boundaries of the Jackson International Airport and is located in a county which has voted against coming out from under the dry law; however, any such facility may only be located in areas designated by the governing authorities of such municipality;

6. Any municipality with a population in excess of ten thousand (10,000) according to the latest federal decennial census that is located in a county that is bordered by the Pearl River and is not traversed by Interstate Highway 20, with a population in excess of forty-five thou-

sand (45,000) according to the latest federal decennial census; however, the governing authorities of such a municipality may by ordinance:

a. Specify the hours of operation of facilities that offer alcoholic beverages for sale;

b. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages;

c. Designate the areas in which facilities that offer alcoholic beverages for sale may be located;

7. The West Pearl Restaurant Tax District as defined in Chapter 912, Local and Private Laws of 2007;

8.a. Land that is located in any county in which Mississippi Highway 43 and Mississippi Highway 25 intersect and:

A. Owned by the Pearl River Valley Water Supply District, and/or

B. Located within the Reservoir Community District, zoned commercial, east of Old Fannin Road, north of Regatta Drive, south of Spillway Road, west of Hugh Ward Boulevard and accessible by Old Fannin Road, Spillway Road, Spann Drive and/or Lake Vista Place, and/or

C. Located within the Reservoir Community District, zoned commercial, west of Old Fannin Road, south of Spillway Road and extending to the boundary of the corporate limits of the City of Flowood, Mississippi;

b. The board of supervisors of such county, with respect to B and C of item 8.a, may by resolution or other order:

A. Specify the hours of operation of facilities that offer alcoholic beverages for sale,

B. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages, and

C. Designate the areas in which facilities that offer alcoholic beverages for sale may be located;

9. Any facility located on property that is a game reserve with restricted access that consists of at least eight hundred (800) contiguous acres with no public roads, that offers as a service hunts for a fee to overnight guests of the facility, and has accommodations for at least fifty (50) overnight guests;

10. Any facility that:

a. Consists of at least six thousand (6,000) square feet being heated and cooled along with an additional adjacent area that consists of at least two thousand two hundred (2,200) square feet regardless of whether heated and cooled,

b. For a fee is used to host events such as weddings, reunions and conventions,

c. Provides lodging accommodations regardless of whether part of the facility and/or located adjacent to or in close proximity to the facility, and

d. Is located on property that consists of at least thirty (30) contiguous acres;

11. Any facility and related property:

a. Located on property that consists of at least one hundred twenty-five (125) contiguous acres and consisting of an eighteen (18) hole golf course, and/or located in a facility that consists of at least eight thousand (8,000) square feet being heated and cooled,

b. Used for the purpose of providing meals and hosting events, and

c. Used for the purpose of teaching culinary arts courses and/or turf management and grounds keeping courses, and/or outdoor recreation and leadership courses;

12. Any facility and related property that:

a. Consist of at least eight thousand (8,000) square feet being heated and cooled,

b. For a fee is used to host events,

c. Is used for the purpose of culinary arts courses, and/or outdoor recreation and leadership courses;

13. The clubhouse and associated golf course where the golf course is adjacent to one or more residential developments and the golf course and all such developments collectively include at least two hundred (200) acres and at least one hundred fifty (150) residential units and are located a. in a county that has voted against coming out from under the dry law; and b. outside of but in close proximity to a municipality in such county which has voted under Section 67-1-14, after January 1, 2013, to come out from under the dry law;

14. The clubhouse and associated eighteen (18) hole golf course located in a municipality traversed by Interstate Highway 55 and U.S. Highway 51 that has voted to come out from under the dry law;

15. Land that is planned for mixed use development and consists of at least two hundred (200) contiguous acres with one or more planned residential developments collectively planned to include at least two hundred (200) residential units when completed and which land is located:

a. In a county that has voted to come out from under the dry law,

b. Outside the corporate limits of any municipality in such county and adjacent to or in close proximity to a golf course located in a municipality in such county, and

c. Within one (1) mile of a state institution of higher learning;

16. Any facility with a capacity of five hundred (500) people or more, to be used as a venue for private events, on a tract of land in the Southwest Quarter of Section 33, Township 2 South, Range 7 East, of a county where U.S. Highway 45 and U.S. Highway 72 intersect and that has not voted to come out from under the dry law;

17. One hundred five (105) contiguous acres, more or less, located in Hinds County, Mississippi, and in the City of Jackson, Mississippi, whereon are constructed a variety of buildings, improvements, grounds or objects for the purpose of holding events thereon to promote agricultural and industrial development in Mississippi;

18. Land that is owned by a state institution of higher learning and:

a. Located entirely within a county that has elected by majority vote not to permit the transportation, storage, sale, distribution, receipt and/or manufacture of light wine and beer pursuant to Section 67-3-7, and

b. Adjacent to but outside the incorporated limits of a municipality that has elected by majority vote to permit the sale, receipt, storage and transportation of light wine and beer pursuant to Section 67-3-9.

If any portion of the land described in this item 18 has been declared a qualified resort area by the department before July 1, 2020, then that qualified resort area shall be incorporated into the qualified resort area created by this item 18;

19. Any facility and related property:

a. Used as a flea market or similar venue during a weekend (Saturday and Sunday) immediately preceding the first Monday of a month and having an annual average of at least one thousand (1,000) visitors for each such weekend and five hundred (500) vendors for Saturday of each such weekend, and

b. Located in a county that has not voted to come out from under the dry law and outside of but in close proximity to a municipality located in such county and which municipality has voted to come out from under the dry law;

20. Blocks 1, 2 and 3 of the original town square in any municipality with a population in excess of one thousand five hundred (1,500) according to the latest federal decennial census and which is located in:

a. A county traversed by Interstate 55 and Interstate 20, and

b. A judicial district that has not voted to come out from under the dry law;

21. Any municipality with a population in excess of two thousand (2,000) according to the latest federal decennial census and in which is located a part of White's Creek Lake and in which U.S. Highway 82 intersects with Mississippi Highway 9 and located in a county that is partially bordered on one (1) side by the Big Black River; however, the governing authorities of such a municipality may by ordinance:

a. Specify the hours of operation of facilities that offer alcoholic beverages for sale;

b. Specify the percentage of revenue that facilities that offer alcoholic beverages for sale must derive from the preparation, cooking and serving of meals and not from the sale of beverages; and

c. Designate the areas in which facilities that offer alcoholic beverages for sale may be located.

22. A restaurant located on a two-acre tract adjacent to a five-hundred-fifty-acre lake in the northeast corner of a county traversed by U.S. Interstate 55 and U.S. Highway 84.

23. Any tracts of land in Oktibbeha County, situated east of Mississippi Boulevard, north of Coliseum Boulevard and east of Montgomery Hill Road, and not located on the property of a state institution of higher learning.

The status of these municipalities, districts, clubhouses, facilities, golf courses and areas described in subparagraph (iii) of this paragraph (o) as qualified resort areas does not require any declaration of same by the department.

(p) "Native wine" means any product, produced in Mississippi for sale, having an alcohol content not to exceed twenty-one percent (21%) by weight and made in accordance with revenue laws of the United States, which shall be obtained primarily from the alcoholic fermentation of the juice of ripe grapes, fruits, berries, honey or vegetables grown and produced in Mississippi; provided that bulk, concentrated or fortified wines used for blending may be produced without this state and used in producing native wines. The department shall adopt and promulgate rules and regulations to permit a producer to import such bulk and/or fortified wines into this state for use in blending with native wines without payment of any excise tax that would otherwise accrue thereon.

(q) "Native winery" means any place or establishment within the State of Mississippi where native wine is produced, in whole or in part, for sale.

(r) "Bed and breakfast inn" means an establishment within a municipality where in consideration of payment, breakfast and lodging are habitually furnished to travelers and wherein are located not less than eight (8) and not more than nineteen (19) adequately furnished and completely separate sleeping rooms with adequate facilities, that persons usually apply for and receive as overnight accommodations; however, such restriction on the minimum number of sleeping rooms shall not apply to establishments on the National Register of Historic Places. No place shall qualify as a bed and breakfast inn under this chapter unless on the date of the initial application for a license under this chapter more than fifty percent (50%) of the sleeping rooms are located in a structure formerly used as a residence.

(s) "Board" shall refer to the Board of Tax Appeals of the State of Mississippi.

(t) "Spa facility" means an establishment within a municipality or qualified resort area and owned by a hotel where, in consideration of payment, patrons receive from licensed professionals a variety of private personal care treatments such as massages, facials, waxes, exfoliation and hairstyling.

(u) "Art studio or gallery" means an establishment within a municipality or qualified resort area that is in the sole business of allowing patrons to view and/or purchase paintings and other creative artwork.

(v) “Cooking school” means an establishment within a municipality or qualified resort area and owned by a nationally recognized company that offers an established culinary education curriculum and program where, in consideration of payment, patrons are given scheduled professional group instruction on culinary techniques. For purposes of this paragraph, the definition of cooking school shall not include schools or classes offered by grocery stores, convenience stores or drugstores.

(w) “Campus” means property owned by a public school district, community or junior college, college or university in this state where educational courses are taught, school functions are held, tests and examinations are administered or academic course credits are awarded; however, the term shall not include any “restaurant” or “hotel” that is located on property owned by a community or junior college, college or university in this state, and is operated by a third party who receives all revenue generated from food and alcoholic beverage sales.

HISTORY: Codes, 1942, § 10265-05; Laws, 1966, ch. 540, § 5; Laws, 1976, ch. 467, § 12; Laws, 1977, ch. 488, § 2; Laws, 1980, ch. 348, § 1; Laws, 1984, ch. 425, § 1; Laws, 1987, ch. 358; Laws, 1988, ch. 384; Laws, 1990, ch. 569, § 3; Laws, 1994, ch. 558, § 20; Laws, 1998, ch. 306, § 2; Laws, 1999, ch. 453, § 19; Laws, 2004, ch. 397, § 1; Laws, 2008, ch. 366, § 1; Laws, 2009, ch. 465, § 1; Laws, 2009, ch. 492, § 126; Laws, 2009, ch. 558, § 1; Laws, 2012, ch. 323, § 2; Laws, 2012, ch. 428, § 1; Laws, 2012, ch. 501, § 7; Laws, 2014, ch. 346, § 1; Laws, 2015, ch. 413, § 1; Laws, 2016, ch. 401, § 1, eff from and after July 1, 2016; Laws, 2018, ch. 383, § 1, eff from and after July 1, 2018; Laws, 2018, ch. 438, § 1, eff from and after July 1, 2018; Laws, 2020, ch. 314, § 37, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 429, § 6, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 1, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 1 of Chapter 383, Laws of 2018, effective from and after July 1, 2018 (approved March 19, 2018), amended this section. Section 1 of Chapter 438, Laws of 2018, effective from and after July 1, 2018 (approved April 12, 2018), also amended this section. As set out above, this section reflects the language of Section 1 of Chapter 438, Laws of 2018, which contains language that specifically provides that it supersedes § 67-1-5 as amended by Section 1 of Chapter 383, Laws of 2018.

Section 37 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section. Section 6 of Chapter 429, Laws of 2020, effective from and after July 1, 2020 (approved July 1, 2020), and Section 1 of Chapter 458, Laws of 2020, effective from and after July 1, 2020 (approved July 8, 2020), also amended the section. Amendments by Section 37 of Chapter 314, Laws of 2020, were superseded by Section 6 of Chapter 429, Laws of 2020. Amendments by Section 6 of Chapter 429, Laws of 2020, and Section 1 of Chapter 458, Laws of 2020, do not conform and do not meet the Joint Committee on Compilation, Revision, and Publication of Legislation’s criteria for integration. As set out above, this section reflects the language of Section 1 of Chapter 458, Laws of 2020, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective date is the same, the amendment with the latest approval date supersedes all other amendments to the same section approved on an earlier date and time.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in an internal statutory reference in paragraph (o)(iii)8.b by substituting “with respect to B and C of item 8.a”

for “with respect to B and C of this item 8.” The Joint Committee ratified the correction at its October 19, 2020, meeting.

Amendment Notes — The 2014 amendment added (o)(iii)8 and (o)(iii)9; in the paragraph following (o)(iii)9, substituted a comma for “and” and inserted “and areas” following “golf courses”; and made minor punctuation changes throughout.

The 2015 amendment added “however, the governing authorities of such a municipality may by ordinance:” at the end of (o)(iii)6; and added (o)(iii)6.a. through c., and (o)(iii)10 through 12.

The 2016 amendment, in (o)(iii)8, deleted “owned by the Pearl River Valley Water Supply District and” following “Land that is” and added a. and b., and added (o)(iii)13 and made a related stylistic change.

The first 2018 amendment (ch. 383, § 1) added (o)(iii)14.

The second 2018 amendment (ch. 438, § 1) added the last three sentences of (o); in (o)(iii), redesignated former 8. as present 8.a. and added 8.b., in 8.a., redesignated former 8.a. and b. as 8.a.A. and B. and added C., deleted former 12.c., which read: “Is located on property on or near a bayou or other waterway,” and redesignated former 12.d. as 12.c., added 15., and made related changes; and added (w).

The first 2020 amendment (ch. 314), effective June 18, 2020, inserted “light spirit product” in (a).

The second 2020 amendment (ch. 429) inserted “honey” in (d) and (p).

The third 2020 amendment (ch. 458), in (d) and (p), inserted “honey”; and in (o)(iii), inserted “tennis courts and related facilities and swimming pool and related facilities” twice, and made related changes in 2, and added 16 through 23 and made related changes

§ 67-1-7. General applicability of chapter.

(1) Except as otherwise provided in Section 67-9-1 for the transportation and possession of limited amounts of alcoholic beverages for the use of an alcohol processing permittee, and subject to all of the provisions and restrictions contained in this chapter, the manufacture, sale, distribution, and transportation of alcoholic beverages shall be lawful, subject to the restrictions hereinafter imposed, in those counties and municipalities of this state in which, at a local option election called and held for that purpose under the provisions of this chapter, a majority of the qualified electors voting in such election shall vote in favor thereof. The manufacture, sale, distribution and possession of native wines shall be lawful in any location within any such county except those locations where the manufacture, sale or distribution is prohibited by law other than this section or by regulations of the department.

(2) Notwithstanding the foregoing, within any state park or any state park facility that has been declared a qualified resort area by the department, and within any qualified resort area as defined under Section 67-1-5(o)(iii), an on-premises retailer’s permit may be issued for the qualified resort area, and the permittee may lawfully sell alcoholic beverages for consumption on his licensed premises regardless of whether or not the county or municipality in which the qualified resort area is located has voted in favor of coming out from under the dry law, and it shall be lawful to receive, store, sell, possess and consume alcoholic beverages on the licensed premises, and to sell, distribute and transport alcoholic beverages to the licensed premises. Moreover, the governing authorities of a municipality in which a qualified resort area defined

under Section 67-1-5(o)(iii)5, 7 or 21 is located, the Pearl River Valley Water Supply District Board which governs the qualified resort area defined under Section 67-1-5(o)(iii)8.a.A, and the board of supervisors of the county in which the qualified resort area defined under Section 67-1-5(o)(iii)8.a.B and C is located, may, by ordinance or resolution, provide that package retailer's permits may be issued in the applicable qualified resort area, and that it shall be lawful to receive, store, sell, possess and distribute alcoholic beverages in accordance with such package retailer's permits.

HISTORY: Codes, 1942, § 10265-04; Laws, 1966, ch. 540, § 4; Laws, 1976, ch. 467, § 13; Laws, 1990, ch. 569, § 4; Laws, 1994, ch. 558, § 21; Laws, 1996, ch. 417, § 1; Laws, 2004, ch. 397, § 2; Laws, 2006, ch. 529, § 6; Laws, 2008, ch. 366, § 2; Laws, 2009, ch. 558, § 3, eff May 26, 2009 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section); Laws, 2020, ch. 423, § 2, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 2, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 2 of Chapter 423, Laws of 2020, effective from and after July 1, 2020 (approved June 30, 2020), amended this section. Section 2 of Chapter 458, Laws of 2020, effective from and after July 1, 2020 (approved July 8, 2020), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected errors in internal statutory references in the last sentence of (2) by substituting "Section 67-1-5(o)(iii)8.a.A" for "Section 67-1-5(o)(iii)8(a)" and "Section 67-1-5(o)(iii)8.a.B and C" for "Section 67-1-5(o)(iii)(b) and (c)." The Joint Committee ratified the corrections at its October 19, 2020, meeting.

Amendment Notes — The first 2020 amendment (ch. 423), in (1), deleted "possession" preceding "and transportation" in the first sentence, deleted the former second sentence, which read: "Except as otherwise provided in Section 67-1-51 for holders of a caterer's permit, the manufacture, sale and distribution of alcoholic beverages shall not be permissible or lawful in counties except in (a) incorporated municipalities located within such counties, (b) qualified resort areas within such counties approved as such by the State Tax Commission, or (c) clubs within such counties, whether within a municipality or not," and substituted "department" for "commission" in the last sentence.

The second 2020 amendment (c. 458), in (2), added the last sentence; and substituted "department" for "commission" both times it appeared.

§ 67-1-9. Alcoholic beverages prohibited except as authorized in this chapter; penalties.

(1) It shall be unlawful for any person to manufacture, distill, brew, sell, import into this state, export from the state, transport, distribute, warehouse, store, solicit, take order for, bottle, rectify, blend, treat, mix or process any alcoholic beverage except as authorized in this chapter. However, nothing

contained herein shall prevent importers, wineries and distillers of alcoholic beverages from storing such alcoholic beverages in private bonded warehouses located within the State of Mississippi for the ultimate use and benefit of the Department of Revenue as provided in Section 67-1-41. The department is hereby authorized to promulgate rules and regulations for the establishment of such private bonded warehouses and for the control of alcoholic beverages stored in such warehouses. Additionally, nothing herein contained shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his profession, or prevent any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or other institution. Any drugstore employing a licensed pharmacist may possess and use alcoholic liquors in the combination of prescriptions of duly licensed physicians. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this chapter.

(2) Any person, upon conviction of any provision of this section, shall be punished as follows:

(a) By a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail not less than one (1) week nor more than three (3) months, or both, for the first conviction under this section.

(b) By a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the county jail not less than sixty (60) days, nor more than six (6) months, or both fine and imprisonment, for the second conviction for violating this section.

(c) By a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the State Penitentiary not less than one (1) year, nor more than five (5) years, or both fine and imprisonment, for conviction the third time under this section for the violation thereof after having been twice convicted of its violation.

(3) Nothing in this section shall make it unlawful to transport bottles or containers of alcoholic beverages that are legally purchased in this state if the bottles or containers are unopened and are being transported on state or federal highway.

HISTORY: Codes, 1942, § 10265-06; Laws, 1966, ch. 540, § 6; Laws, 1985, ch. 412; Laws, 1993, ch. 505, § 1, eff from and after July 1, 1993; Laws, 2018, ch. 385, § 1, eff from and after July 1, 2018; Laws, 2020, ch. 423, § 3, eff from and after July 1, 2020.

Amendment Notes — The 2018 amendment, in (1), substituted “Department of Revenue” for “State Tax Commission” in the second sentence, and “department” for “commission” in the third sentence; and added (3).

The 2020 amendment, in (1), deleted “possess” following “distill, brew, sell” in the first sentence.

§ 67-1-11. Local option election to render chapter effective in county.

(1) Notwithstanding any provision of this chapter, the legalizing provisions of this chapter, except as authorized under Section 67-9-1 and Section 67-1-7(2), shall not be effective, applicable or operative in any county unless and until a local option election shall be called and held in such county in the manner and with the results hereinafter provided.

(2) Upon presentation and filing of a proper petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county, it shall be the duty of the board of supervisors to call an election at which there shall be submitted to the qualified electors of the county the question of whether or not the sale and distribution of alcoholic beverages shall be permitted in such county as provided in this chapter. Such election shall be held and conducted by the county election commissioners on a date fixed by the order of the board of supervisors, which date shall not be more than sixty (60) days from the date of the filing of said petition. Notice thereof shall be given by publishing such notice once each week for at least three (3) consecutive weeks in some newspaper published in said county or, if no newspaper be published therein, by such publication in a newspaper in an adjoining county and having a general circulation in the county involved. The election shall be held not earlier than fifteen (15) days from the first publication of such notice.

(3) Said election shall be held and conducted as far as may be possible in the same manner as is provided by law for the holding of general elections. The ballots used thereat shall contain a brief statement of the proposition submitted and, on separate lines, the words "I vote FOR coming out from under the dry law in _____ County ()" "I vote AGAINST coming out from under the dry law in _____ County ()" with appropriate boxes in which the voters may express their choice. All qualified electors may vote by marking the ballot with a cross (x) or check (✓) mark opposite the words of their choice.

(4) The election commissioners shall canvass and determine the results of said election, and shall certify same to the board of supervisors which shall adopt and spread upon its minutes an order declaring such results. If, in such election, a majority of the qualified electors participating therein shall vote in favor of the proposition, this chapter shall become applicable and operative in such county and the manufacture, sale and distribution of alcoholic beverages therein shall be lawful to the extent and in the manner permitted hereby. If, on the other hand, a majority of the qualified electors participating in the election shall vote against the proposition, this chapter, except for Section 67-9-1 and 67-1-7(2), shall not become effective and operative in such county and, except as otherwise provided under Section 67-9-1 and 67-1-7(2), all laws prohibiting and regulating the manufacture, sale and distribution of alcoholic beverages shall remain in full force and effect and be administered and vigorously prosecuted therein. In either case, no further election shall be held in said county under the provisions of this chapter for a period of two (2) years from

the date of the prior election and then only upon the filing of a petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county as is otherwise provided herein.

HISTORY: Codes, 1942, § 10265-35; Laws, 1966, ch. 540, § 35; Laws, 1996, ch. 417, § 6; Laws, 2004, ch. 397, § 3, eff from and after July 1, 2004; Laws, 2020, ch. 423, § 4, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in (2), in the first sentence, substituted “sale and distribution of alcoholic beverages” for “sale, distribution and possession of alcoholic liquors”; and in (4), in the second sentence, inserted “and” preceding “distribution” and deleted “and possession” thereafter, and in the third sentence, substituted “sale and distribution of alcoholic beverages” for “sale, distribution and possession of intoxicating liquor.”

§ 67-1-14. Local option election to render chapter ineffective in certain municipalities.

(1) The legalizing provisions of this chapter may be effective, applicable and operative in any municipality located in a county which has voted against coming out from under the dry law if a local option election shall be called and held in such municipality in the manner and with the results hereinafter provided.

(2)(a) Any municipality in this state having a population of not less than five thousand (5,000) according to the latest federal census and which is located in a county which has voted against coming out from under the dry law, or any municipality that is a county seat and which is located in a county which has voted against coming out from under the dry law, may, at an election held for the purpose under the election laws applicable to such municipality, either prohibit or permit, except as otherwise provided under Section 67-9-1, the sale of alcoholic beverages. An election to determine whether such sale shall be permitted in municipalities wherein its sale is prohibited by law shall be ordered by the municipal governing authorities upon the presentation of a petition to such governing authorities containing the names of at least twenty percent (20%) of the duly qualified voters of such municipality asking for such election. In like manner, an election to determine whether such sale shall be prohibited in municipalities wherein its sale is permitted by law shall be ordered by the municipal governing authorities upon the presentation of a petition to such governing authorities containing the names of at least twenty percent (20%) of the duly qualified voters of such municipality asking for such election. No election on either question shall be held by any one (1) municipality more often than once in two (2) years.

Thirty (30) days' notice shall be given to the qualified electors of such municipality, in the manner prescribed by law, upon the question of either permitting or prohibiting such sale, such notice to contain a statement of the question to be voted on at the election. The ballots to be used in the election

shall have the following words printed thereon: "For the legal sale of alcoholic beverages" and the words "Against the legal sale of alcoholic beverages" next below. In marking his ballot the voter shall make a cross (X) opposite the words of his choice.

If in the election a majority of the qualified electors voting in the election shall vote "for the legal sale of alcoholic beverages," then the municipal governing authorities shall pass the necessary order permitting the legal sale of such alcoholic beverages in such municipality. If in the election a majority of the qualified electors voting in the election shall vote "against the legal sale of alcoholic beverages," then the municipal governing authorities shall pass the necessary order prohibiting the sale of alcoholic beverages in such municipality.

(b) The provisions of this subsection shall also apply to any municipality having a population of not less than six thousand (6,000) according to the latest federal census, a portion of which is located in a county which has voted against coming out from under the dry law and a portion of which is located in a county which has voted in favor of coming out from under the dry law. For the purpose of determining whether or not such a municipality meets the threshold population of six thousand (6,000) which will qualify the municipality to hold an election under this subsection, the entire population of the municipality shall be considered; however, the petition to hold the election authorized in this subsection shall be ordered by the municipal governing authorities upon the presentation of a petition to such governing authorities containing the names of at least twenty percent (20%) of the duly qualified voters of such municipality who reside in that portion of the municipality located in a county which has voted against coming out from under the dry law and the election shall be held only in that portion of the municipality. In all other respects, the authority for the holding of elections and the manner in which such elections shall be conducted shall be as prescribed in paragraph (a) of this subsection; and, after proper certification of election results, the municipal governing authorities shall pass the appropriate order to permit or prohibit the legal sale of alcoholic beverages in that portion of the municipality located in a county which has voted against coming out from under the dry law.

(3) The governing authorities of a municipality that has voted to come out from under the dry law after August 23, 2012, may, by ordinance, provide that alcoholic beverages may be sold in the municipality only by the holder of an on-premises retailer's permit.

HISTORY: Laws, 1990, ch. 569, § 1; Laws, 1993, ch. 445, § 1; Laws, 1996, ch. 417, § 8; Laws, 2012, ch. 462, § 1, eff (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section); Laws, 2020, ch. 423, § 5, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in the first paragraph of (2)(a), deleted "and the receipt, storage and transportation for the purpose of sale" preceding "of alcoholic beverages" near the end of the first sentence, and deleted "and possession"

following “such sale” and “its sale” in the second and third sentences; in the second paragraph of (2)(a), deleted “and possession” following “such sale” in the first sentence, and substituted “alcoholic beverages” for “alcoholic liquors” twice in the second sentence; in the third paragraph of (2)(a), substituted “alcoholic beverages” for “alcoholic liquors” twice; and made a minor stylistic change in (3).

§ 67-1-16. Election on question of whether qualified resort to be allowed in municipality; designation of municipality as qualified resort area; county election on question of whether area should be qualified resort area.

(1)(a) Before an area may be designated by the governing authorities of a municipality as an area in which facilities which are defined as qualified resort areas in Section 67-1-5(o)(iii)5 may be located, an election shall be held, under the election laws applicable to the municipality, on the question of whether qualified resort areas shall be allowed in the municipality. An election to determine whether qualified resort areas shall be allowed in the municipality shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the municipality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: “FOR THE ESTABLISHMENT OF QUALIFIED RESORT AREAS,” and next below, “AGAINST THE ESTABLISHMENT OF QUALIFIED RESORT AREAS.” In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) Qualified resort areas may be established if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(2)(a) Before a municipality may be designated as a qualified resort area as defined in Section 67-1-5(o)(iii)6, an election shall be held, under the election laws applicable to the municipality, on the question of whether the municipality shall be a qualified resort area. An election to determine whether the municipality shall be a qualified resort area shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the municipality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement

of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below, "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The municipality may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(3)(a) Before an area may be designated a qualified resort area as defined in Section 67-1-5(o)(iii)7, an election shall be held in the municipality in which the area is located under the election laws applicable to the municipality, on the question of whether the area shall be a qualified resort area. An election to determine whether the area shall be a qualified resort area shall be ordered by the municipal governing authorities, upon presentation to the governing authorities of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the municipality asking for the election. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA," and next below, "AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA." In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The area may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(4)(a) Before an area may be designated a qualified resort area as defined in Section 67-1-5(o)(iii)8, an election shall be held in the area described in Section 67-1-5(o)(iii)8 under the election laws applicable to counties, on the question of whether the area shall be a qualified resort area. An election to determine whether the area shall be a qualified resort area shall be ordered by the board of supervisors, upon presentation to the board of a petition containing the names of at least twenty percent (20%) of the duly qualified voters of the area described in Section 67-1-5(o)(iii)8 asking for the election. An election on the question may not be held by the county more often than once each year.

(b) Thirty (30) days' notice shall be given to the qualified electors of the area, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: "FOR THE ESTABLISHMENT

OF A QUALIFIED RESORT AREA,” and next below, “AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA.” In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The area may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

(5)(a) Before a municipality may be designated as a qualified resort area as defined in Section 67-1-5(o)(iii)21, an election shall be held, under the election laws applicable to the municipality, on the question of whether the municipality shall be a qualified resort area. An election to determine whether the municipality shall be a qualified resort area shall be ordered by the municipal governing authorities. An election on the question may not be held by the municipality more often than once each year.

(b) Thirty (30) days’ notice shall be given to the qualified electors of the municipality, in the manner prescribed by law, on the question of allowing qualified resort areas to be established. The notice shall contain a statement of the question to be voted on at the election. The ballots used in the election shall have the following words printed thereon: “FOR THE ESTABLISHMENT OF A QUALIFIED RESORT AREA,” and next below, “AGAINST THE ESTABLISHMENT OF A QUALIFIED RESORT AREA.” In marking his ballot, the voter shall make a cross (X) opposite the words of his choice.

(c) The municipality may be established as a qualified resort area if a majority of the qualified electors voting in the election vote for such establishment. A qualified resort area may not be established if a majority of the qualified electors voting in the election vote against such establishment.

HISTORY: Laws, 2009, ch. 558, § 2, eff May 26, 2009 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section); Laws, 2014, ch. 346, § 2, eff from and after July 1, 2014; Laws, 2020, ch. 458, § 4, eff from and after July 1, 2020.

Amendment Notes — The 2014 amendment added (4).
The 2020 amendment added (5).

§ 67-1-17. Unlawful possession of alcoholic beverages; seizure and sale.

JUDICIAL DECISIONS

1. In general.

Section 67-1-17, providing for the seizure of unlawful alcoholic beverages, violates federal due process requirements by failing to provide for reasonable notice to the owner of a seized vehicle prior to its forfeiture. However, notice to the owner of a seized vehicle advising him of the pen-

dency of a subsequent forfeiture proceeding, provided by § 99-27-11, and the owner’s opportunity to interpose a claim to the seized property prior to its forfeiture, provided by § 99-27-13, satisfy due process notice and hearing requirements. *Holladay v. Roberts*, 425 F. Supp. 61, 1977 U.S. Dist. LEXIS 18048 (N.D. Miss. 1977).

§ 67-1-18. Disposal of seized property by Department of Revenue.

(1) Any alcoholic beverage, light wine, beer, light spirit product or raw material seized under the authority of this chapter, Chapter 3 of Title 67, or Chapter 31 of Title 97, Mississippi Code of 1972, shall be submitted to the custody of the Mississippi Department of Revenue for disposition.

(2)(a) Except as otherwise provided in this paragraph, the department shall not dispose of any alcoholic beverage, light wine, beer, light spirit product or raw material without first providing reasonable notice to all individuals having an interest in the property and an opportunity for them to appear and establish their right or claim to the property. If no hearing is requested by the passage of the appropriate deadline, the department shall require the alcoholic beverages, light wine, beer, light spirit products or raw materials to be sold for the benefit of the state or destroyed.

(b) The provisions of paragraph (a) of this subsection shall not apply in cases in which the owner or possessor of the alcoholic beverage, light wine, beer, light spirit product or raw material is convicted of selling or possessing alcoholic beverages, beer, light spirit products, light wine or raw materials in a manner or location prohibited by law, or convicted of a violation of Section 67-1-81(2) or 67-3-70. In such cases, the alcoholic beverage, light wine, beer, light spirit product or raw materials seized in connection with the violation may be disposed of in the manner prescribed by the department.

(3)(a) If the department orders the property, other than alcoholic beverages, sold, then the property shall be sold to the highest bidder, the bidder being any person, firm or government agency. The offer for sale shall be made to not less than three (3) qualified prospective buyers, by mailing them an invitation to bid, which shall describe the property, terms of sale, method of delivery, manner of bidding and fixing a time of not more than fifteen (15) days from the date of invitation for opening of bids received by the department.

(b) All bids and payment shall be made in the manner as prescribed by the department. Bids, after opening, shall be subject to public inspection.

(4) If the department orders the sale of seized alcoholic beverages, it may place the alcoholic beverages in the state inventory to be sold to authorized retailers in the same manner as other alcoholic beverages in the state inventory are sold.

(5) Any appeal from a seizure and disposal made under this section shall be made pursuant to Section 67-1-72.

HISTORY: Laws, 1984, ch. 424, § 2; Laws, 2015, ch. 438, § 2; Laws, 2016, ch. 470, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 314, § 38, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 322, § 1, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 38 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section. Section 1 of Chapter 322, Laws of 2020, effective from and after July 1, 2020 (approved

June 22, 2020), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Amendment Notes — The 2015 amendment inserted subsection designations and added (5); substituted “Department of Revenue” for “State Tax Commission” in (1) and substituted “department” for “commission” throughout the section; inserted “light wine, beer” in (1) and twice in (2); inserted “Chapter 3 of Title 67” in (1); substituted “If no appeal is requested by the passage of the appropriate deadline” for “Upon hearing the evidence” and deleted “released to an interested party” preceding “sold for the benefit” in the second sentence of (2); and made stylistic changes.

The 2016 amendment, in (2), in the first sentence of (a), added the exception at the beginning and substituted “first providing reasonable” for “first having a hearing with reasonable,” and in the last sentence, substituted “hearing is requested” for “appeal is requested”; and added (b).

The first 2020 amendment (ch. 314), effective June 18, 2020, inserted “light spirit product” and “light spirit products” everywhere they appear.

The second 2020 amendment (ch. 322), in (2)(b), substituted “convicted of selling or possessing alcoholic beverages, beer, light wine or raw materials in a manner or location prohibited by law” for “convicted of possession of alcoholic beverages, beer or light wine in a location in which such possession is prohibited by law.”

Cross References — Mississippi Department of Revenue generally, see §§ 27-3-1 et seq.

§ 67-1-37. Powers and duties of Department of Revenue with respect to Alcoholic Beverage Control Division.

The Department of Revenue, under its duties and powers with respect to the Alcoholic Beverage Control Division therein, shall have the following powers, functions and duties:

(a) To issue or refuse to issue any permit provided for by this chapter, or to extend the permit or remit in whole or any part of the permit monies when the permit cannot be used due to a natural disaster or act of God.

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this chapter, or the law governing the production and sale of native wines, or any lawful rules and regulations of the department issued hereunder, or for other sufficient cause, any permit issued by it under the provisions of this chapter. The department shall also be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or Section 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or Section 93-11-163, as the case may be, shall control.

(c) To prescribe forms of permits and applications for permits and of all reports which it deems necessary in administering this chapter.

(d) To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture of alcoholic beverages.

(e) To issue rules regulating the advertising of alcoholic beverages in the state in any class of media and permitting advertising of the retail price of alcoholic beverages.

(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring informative labeling of all alcoholic beverages offered for sale within this state and providing for the standards of fill and shapes of retail containers of alcoholic beverages; however, such containers shall not contain less than fifty (50) milliliters by liquid measure.

(g) Subject to the provisions of subsection (3) of Section 67-1-51, to issue rules and regulations governing the issuance of retail permits for premises located near or around schools, colleges, universities, churches and other public institutions, and specifying the distances therefrom within which no such permit shall be issued. The Alcoholic Beverage Control Division shall not issue a package retailer's or on-premises retailer's permit for the sale or consumption of alcoholic beverages in or on the campus of any public school, community or junior college, college or university.

(h) To adopt and promulgate, repeal and amend, such rules, regulations, standards, requirements and orders, not inconsistent with this chapter or any law of this state or of the United States, as it deems necessary to control the manufacture, importation, transportation, distribution and sale of alcoholic liquor, whether intended for beverage or nonbeverage use in a manner not inconsistent with the provisions of this chapter or any other statute, including the native wine laws.

(i) To call upon other administrative departments of the state, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it may deem necessary in the performance of its duties.

(j) To prepare and submit to the Governor during the month of January of each year a detailed report of its official acts during the preceding fiscal year ending June 30, including such recommendations as it may see fit to make, and to transmit a like report to each member of the Legislature of this state upon the convening thereof at its next regular session.

(k) To inspect, or cause to be inspected, any premises where alcoholic liquors intended for sale are manufactured, stored, distributed or sold, and to examine or cause to be examined all books and records pertaining to the business conducted therein.

(l) To investigate the administration of laws in relation to alcoholic liquors in this and other states and any foreign countries, and to recommend from time to time to the Governor and through him to the Legislature of this state such amendments to this chapter, if any, as it may think desirable.

(m) To designate hours and days when alcoholic beverages may be sold in different localities in the state which permit such sale.

(n) To assign employees to posts of duty at locations where they will be most beneficial for the control of alcoholic beverages and to take any other action concerning persons employed under this chapter as authorized by law and taken in accordance with the rules, regulations and procedures of the State Personnel Board.

(o) To enforce the provisions made unlawful by Chapter 3, Title 67 and Section 97-5-49.

(p) To delegate its authority under this chapter to the Alcoholic Beverage Control Division, its director or any other officer or employee of the department that it deems appropriate.

(q) To prescribe and charge a fee to defray the costs of shipping alcoholic beverages, provided that such fee is determined in a manner provided by the department by rules and/or regulations adopted in accordance with the Mississippi Administrative Procedures Law.

HISTORY: Codes, 1942, § 10265-17; Laws, 1966, ch. 540, § 17; Laws, 1970, ch. 549, § 1; Laws, 1971, ch. 358, § 1; Laws, 1976, ch. 467, § 14; Laws, 1988, ch. 383, § 1; Laws, 1988, ch. 562, § 1; Laws, 1992, ch. 459, § 1; Laws, 1996, ch. 507, § 15; Laws, 1997, ch. 558, § 2; reenacted and amended, Laws, 1998, ch. 520, § 1; Laws, 2002, ch. 570, § 6; Laws, 2003, ch. 392, § 1; Laws, 2005, ch. 462, § 1; Laws, 2006, ch. 529, § 3; Laws, 2007, ch. 462, § 3; Laws, 2009, ch. 492, § 131; Laws, 2011, ch. 379, § 1; Laws, 2016, ch. 470, § 2, eff from and after July 1, 2016; Laws, 2020, ch. 428, § 1, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 3, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 1 of Chapter 428, Laws of 2020, effective from and after July 1, 2020 (approved July 1, 2020), amended this section. Section 3 of Chapter 458, Laws of 2020, effective from and after July 1, 2020 (approved July 8, 2020), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Amendment Notes — The 2016 amendment substituted “unlawful by Chapter 3, Title 67 and Section 97-5-49” for “unlawful by Sections 67-3-13, 67-3-15, 67-3-53, 67-3-57, and 67-3-70” in (1)(o).

The first 2020 amendment (ch. 428) added (1)(q).

The second 2020 amendment (ch. 458), deleted former (2), which read: “No alcoholic beverage shall be sold or consumed at any public athletic event at any public school, community or junior college, college or university.”

Cross References — Administrative Procedures Law, see § 25-43-1.101 et seq.

§ 67-1-41. Department of Revenue as a wholesale distributor and seller of alcoholic beverages; exception to department's exclusive right to sell at wholesale; shipment of wine purchased from winery by individual resident to in-state package retailer; payment of associated taxes, fees surcharges; procedure.

[Through December 31, 2020, this section shall read as follows:]

(1) The department is hereby created a wholesale distributor and seller of alcoholic beverages, not including malt liquors, within the State of Mississippi. It is granted the sole right to import and sell intoxicating liquors at wholesale within the state, and no person who is granted the right to sell, distribute or receive intoxicating liquors at retail shall purchase any intoxicating liquors from any source other than the department except as authorized in subsections (4) and (9). The department may establish warehouses, purchase intoxicating liquors in such quantities and from such sources as it may deem desirable and sell the intoxicating liquors to authorized permittees within the state including, at the discretion of the department, any retail distributors operating within any military post or qualified resort areas within the boundaries of the state, keeping a correct and accurate record of all such transactions and exercising such control over the distribution of alcoholic beverages as seem right and proper in keeping with the provisions or purposes of this chapter.

(2) No person for the purpose of sale shall manufacture, distill, brew, sell, possess, export, transport, distribute, warehouse, store, solicit, take orders for, bottle, rectify, blend, treat, mix or process any alcoholic beverage except in accordance with authority granted under this chapter, or as otherwise provided by law for native wines.

(3) No alcoholic beverage intended for sale or resale shall be imported, shipped or brought into this state for delivery to any person other than as provided in this chapter, or as otherwise provided by law for native wines.

(4) The department may promulgate rules and regulations which authorize on-premises retailers to purchase limited amounts of alcoholic beverages from package retailers and for package retailers to purchase limited amounts of alcoholic beverages from other package retailers. The department shall develop and provide forms to be completed by the on-premises retailers and the package retailers verifying the transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department.

(5) The department may promulgate rules which authorize the holder of a package retailer's permit to permit individual retail purchasers of packages of alcoholic beverages to return, for exchange, credit or refund, limited amounts of original sealed and unopened packages of alcoholic beverages purchased by the individual from the package retailer.

(6) The department shall maintain all forms to be completed by applicants necessary for licensure by the department at all district offices of the department.

(7) The department may promulgate rules which authorize the manufacturer of an alcoholic beverage or wine to import, transport and furnish or give a sample of alcoholic beverages or wines to the holders of package retailer's permits, on-premises retailer's permits, native wine retailer's permits and temporary retailer's permits who have not previously purchased the brand of that manufacturer from the department. For each holder of the designated permits, the manufacturer may furnish not more than five hundred (500) milliliters of any brand of alcoholic beverage and not more than three (3) liters of any brand of wine.

(8) The department may promulgate rules disallowing open product sampling of alcoholic beverages or wines by the holders of package retailer's permits and permitting open product sampling of alcoholic beverages by the holders of on-premises retailer's permits. Permitted sample products shall be plainly identified "sample" and the actual sampling must occur in the presence of the manufacturer's representatives during the legal operating hours of on-premises retailers.

(9) The department may promulgate rules and regulations that authorize the holder of a research permit to import and purchase limited amounts of alcoholic beverages from importers, wineries and distillers of alcoholic beverages or from the department. The department shall develop and provide forms to be completed by the research permittee verifying each transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department. The records and inventory of alcoholic beverages shall be open to inspection at any time by the Director of the Alcoholic Beverage Control Division or any duly authorized agent.

(10) The department may promulgate rules facilitating a retailer's onsite pickup of native wines sold by the department, so that those wines may be delivered to the retailer at the native winery instead of via shipment from the department's warehouse.

(11) **[Through June 30, 2023]** This section shall not apply to alcoholic beverages authorized to be sold by the holder of a distillery retailer's permit or a festival wine permit.

(11) **[From and after July 1, 2023]** This section shall not apply to alcoholic beverages authorized to be sold by the holder of a distillery retailer's permit.

[From and after January 1, 2021, this section shall read as follows:]

(1) The department is hereby created a wholesale distributor and seller of alcoholic beverages, not including malt liquors, within the State of Mississippi. It is granted the right to import and sell alcoholic beverages at wholesale within the state, and no person who is granted the right to sell, distribute or receive alcoholic beverages at retail shall purchase any alcoholic beverages from any source other than the department except as authorized in subsections (4), (9) and (12) of this section. The department may establish warehouses, purchase alcoholic beverages in such quantities and from such sources as it may deem desirable and sell the alcoholic beverages to authorized permittees

within the state including, at the discretion of the department, any retail distributors operating within any military post or qualified resort areas within the boundaries of the state, keeping a correct and accurate record of all such transactions and exercising such control over the distribution of alcoholic beverages as seem right and proper in keeping with the provisions or purposes of this chapter.

(2) No person for the purpose of sale shall manufacture, distill, brew, sell, possess, export, transport, distribute, warehouse, store, solicit, take orders for, bottle, rectify, blend, treat, mix or process any alcoholic beverage except in accordance with authority granted under this chapter, or as otherwise provided by law for native wines.

(3) No alcoholic beverage intended for sale or resale shall be imported, shipped or brought into this state for delivery to any person other than as provided in this chapter, or as otherwise provided by law for native wines.

(4) The department may promulgate rules and regulations which authorize on-premises retailers to purchase limited amounts of alcoholic beverages from package retailers and for package retailers to purchase limited amounts of alcoholic beverages from other package retailers. The department shall develop and provide forms to be completed by the on-premises retailers and the package retailers verifying the transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department.

(5) The department may promulgate rules which authorize the holder of a package retailer's permit to permit individual retail purchasers of packages of alcoholic beverages to return, for exchange, credit or refund, limited amounts of original sealed and unopened packages of alcoholic beverages purchased by the individual from the package retailer.

(6) The department shall maintain all forms to be completed by applicants necessary for licensure by the department at all district offices of the department.

(7) The department may promulgate rules which authorize the manufacturer of an alcoholic beverage or wine to import, transport and furnish or give a sample of alcoholic beverages or wines to the holders of package retailer's permits, on-premises retailer's permits, native wine retailer's permits and temporary retailer's permits who have not previously purchased the brand of that manufacturer from the department. For each holder of the designated permits, the manufacturer may furnish not more than five hundred (500) milliliters of any brand of alcoholic beverage and not more than three (3) liters of any brand of wine.

(8) The department may promulgate rules disallowing open product sampling of alcoholic beverages or wines by the holders of package retailer's permits and permitting open product sampling of alcoholic beverages by the holders of on-premises retailer's permits. Permitted sample products shall be plainly identified "sample" and the actual sampling must occur in the presence of the manufacturer's representatives during the legal operating hours of on-premises retailers.

(9) The department may promulgate rules and regulations that authorize the holder of a research permit to import and purchase limited amounts of alcoholic beverages from importers, wineries and distillers of alcoholic beverages or from the department. The department shall develop and provide forms to be completed by the research permittee verifying each transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department. The records and inventory of alcoholic beverages shall be open to inspection at any time by the Director of the Alcoholic Beverage Control Division or any duly authorized agent.

(10) The department may promulgate rules facilitating a retailer's onsite pickup of native wines sold by the department, so that those wines may be delivered to the retailer at the native winery instead of via shipment from the department's warehouse.

(11) **[Through June 30, 2023]** This section shall not apply to alcoholic beverages authorized to be sold by the holder of a distillery retailer's permit.

(11) **[From and after July 1, 2023]** This section shall not apply to alcoholic beverages authorized to be sold by the holder of a distillery retailer's permit or a festival wine permit.

(12)(a) An individual resident of this state who is at least twenty-one (21) years of age may purchase wine from a winery and have the purchase shipped into this state so long as it is shipped to a package retailer permittee in Mississippi; however, the permittee shall pay to the department all taxes, fees and surcharges on the wine that are imposed upon the sale of wine shipped by the department. No credit shall be provided to the permittee for any taxes paid to another state as a result of the transaction. Package retailers may charge a service fee for receiving and handling shipments from wineries on behalf of the purchasers. The department shall develop and provide forms to be completed by the package retailer permittees verifying the transaction. The completed forms shall be forwarded to the department within a period of time prescribed by the department.

(b) The purchaser of wine that is to be shipped to a package retailer's store shall be required to get the prior approval of the package retailer before any wine is shipped to the package retailer. A purchaser is limited to no more than ten (10) cases of wine per year to be shipped to a package retailer. A package retailer shall notify a purchaser of wine within two (2) days after receiving the shipment of wine. If the purchaser of the wine does not pick up or take the wine from the package retailer within thirty (30) days after being notified by the package retailer, the package retailer may sell the wine as part of his inventory.

(c) Shipments of wine into this state under this section shall be made by a duly licensed carrier. It shall be the duty of every common or contract carrier, and of every firm or corporation that shall bring, carry or transport wine from outside the state for delivery inside the state to package retailer permittees on behalf of consumers, to prepare and file with the department, on a schedule as determined by the department, of known wine shipments containing the name of the common or contract carrier, firm or corporation

making the report, the period of time covered by said report, the name and permit number of the winery, the name and permit number of the package retailer permittee receiving such wine, the weight of the package delivered to each package retailer permittee, a unique tracking number, and the date of delivery. Reports received by the department shall be made available by the department to the public via the Mississippi Public Records Act process in the same manner as other state alcohol filings.

Upon the department's request, any records supporting the report shall be made available to the department within a reasonable time after the department makes a written request for such records. Any records containing information relating to such reports shall be kept and preserved for a period of two (2) years, unless their destruction sooner is authorized, in writing, by the department, and shall be open and available to inspection by the department upon the department's written request. Reports shall also be made available to any law enforcement or regulatory body in the state in which the railroad company, express company, common or contract carrier making the report resides or does business.

Any common or contract carrier that willfully fails to make reports, as provided by this section or any of the rules and regulations of the department for the administration and enforcement of this section, is subject to a notification of violation. In the case of a continuing failure to make reports, the common or contract carrier is subject to possible license suspension and revocation at the department's discretion.

(d) A winery that ships wine under this section shall be deemed to have consented to the jurisdiction of the courts of this state, of the department, of any other state agency regarding the enforcement of this section, and of any related law, rules or regulations.

(e) Any person who makes, participates in, transports, imports or receives a shipment in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not more than six (6) months, or both. Each shipment shall constitute a separate offense.

(13) If any provision of this chapter, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the Legislature to further limit rather than expand commerce in alcoholic beverages to protect the health, safety, and welfare of the state's residents, and to enhance strict regulatory control over taxation, distribution and sale of alcoholic beverages through the three-tier regulatory system imposed by this chapter upon all alcoholic beverages to curb relationships and practices calculated to stimulate sales and impair the state's policy favoring trade stability and the promotion of temperance.

HISTORY: Codes, 1942, § 10265-18; Laws, 1966, ch. 540, § 18; Laws, 1976, ch. 467, § 15; Laws, 1988, ch. 397, § 1; Laws, 1990, ch. 479, § 1; Laws, 1992, ch. 574, § 1; Laws, 1994, ch. 538, § 2; Laws, 1998, ch. 413, § 1; Laws, 1999, ch. 408, § 1; Laws, 2006, ch. 352, § 3; Laws, 2006, ch. 529, § 4, eff from and after passage

(approved Apr. 3, 2006); Laws, 2018, ch. 453, § 4, eff from and after July 1, 2018; Laws, 2020, ch. 422, § 1, eff from and after January 1, 2021; Laws, 2020, ch. 429, § 4, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 1 of Chapter 422, Laws of 2020, effective from and after January 1, 2021 (approved June 30, 2020), amended this section. Section 4 of Chapter 429, Laws of 2020, effective from and after July 1, 2020 (approved July 1, 2020), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Editor's Notes — Laws of 2018, ch. 453, § 5, provides:

"SECTION 5. Sections 1 and 3 of this act shall take effect and be in force from and after the passage of this act [April 13, 2018] and the remainder of this act shall take effect and be in force from and after July 1, 2018."

Laws of 2018, ch. 453, § 5, provides:

"SECTION 5. Sections 1 and 3 of this act shall take effect and be in force from and after the passage of this act [April 13, 2018] and the remainder of this act shall take effect and be in force from and after July 1, 2018."

At the direction of the co-counsel for the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, subsections (11) and (12), as added by Section 1 of Chapter 422, Laws of 2020, have been redesignated as (12) and (13).

Amendment Notes — The 2018 amendment substituted "department" for "State Tax Commission" near the beginning of (1) and for "commission" everywhere else it appears in the section; and added (10).

The first 2020 amendment (ch. 422), effective January 1, 2021, in (1), substituted "alcoholic beverages" for "intoxicating liquors" twice in the second sentence and the first two times it appears in the last sentence, and in the second sentence, inserted "and (11) of this section" and made a related change; and added (12) and (13).

The second 2020 amendment (ch. 429) added (10); redesignated former (10) as (11), and therein added "or a festival wine permit, and made the subsection effective through June 30, 2023; and added a second version of subsection (11), effective from and after July 1, 2023.

§ 67-1-43. Obtaining intoxicants from source other than department; penalty.

[Effective until January 1, 2021, this section will read:]

Any authorized retail distributor who shall purchase or receive intoxicating liquor from any source except from the commission, unless authorized by rules and regulations of the commission promulgated under subsection (4) of Section 67-1-41, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to which may be added imprisonment in the county jail for not more than six (6) months. Any authorization of such person to sell intoxicating beverages may be revoked as provided by law.

[Effective from and after January 1, 2021, this section will read:]

Any authorized retail distributor who shall purchase or receive intoxicating liquor from any source except from the department, unless authorized by rules and regulations of the department promulgated under Section 67-1-41, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), to which may be added imprisonment in the county jail for not more than six (6) months. Any authorization of such person to sell intoxicating beverages may be revoked as provided by law.

HISTORY: Codes, 1942, § 10265-18; Laws, 1966, ch. 540, § 18; Laws, 1976, ch. 467, § 16; Laws, 1988, ch. 397, § 2; Laws, 2006, ch. 352, § 4, eff from and after July 1, 2006; Laws, 2020, ch. 422, § 2, eff from and after January 1, 2021.

Amendment Notes — The 2020 amendment, effective January 1, 2021, substituted “department” for “commission” twice; and deleted “subsection (4) of” preceding “Section 67-1-41.”

§ 67-1-45. Selling alcoholic beverages to source other than department; penalty.

[Through December 31, 2020, this section shall read as follows:]

No manufacturer, rectifier or distiller of intoxicating liquor shall sell or attempt to sell any such intoxicating liquor, except malt liquor, within the State of Mississippi, except to the department, or to the holder of a research permit as provided in Section 67-1-41, or pursuant to Section 67-1-51. A producer of native wine may sell native wines to the department or to consumers at the location of the native winery or its immediate vicinity.

Any violation of this section by any manufacturer, rectifier or distiller shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), and not more than Two Thousand Dollars (\$2,000.00), to which may be added imprisonment in the county jail not to exceed six (6) months.

[From and after January 1, 2021, this section shall read as follows:]

No manufacturer, rectifier or distiller of alcoholic beverages shall sell or attempt to sell any such alcoholic beverages, except malt liquor, within the State of Mississippi, except to the department, or as provided in Section 67-1-41, or pursuant to Section 67-1-51. A producer of native wine may sell native wines to the department or to consumers at the location of the native winery or its immediate vicinity.

Any violation of this section by any manufacturer, rectifier or distiller shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), and not more than Two Thousand Dollars (\$2,000.00), to which may be added imprisonment in the county jail not to exceed six (6) months.

HISTORY: Codes, 1942, § 10265-18; Laws, 1966, ch. 540, § 18; Laws, 1976, ch.

467, § 17; Laws, 1994, ch. 538, § 3; Laws, 2006, ch. 352, § 5, eff from and after July 1, 2006; Laws, 2020, ch. 422, § 3, eff from and after January 1, 2021; Laws, 2020, ch. 429, § 8, eff from and after passage (approved July 1, 2020).

Joint Legislative Committee Note — Section 3 of Chapter 422, Laws of 2020, effective from and after January 1, 2021 (approved June 30, 2020), amended this section. Section 8 of Chapter 429, Laws of 2020, effective from and after July 1, 2020 (approved July 1, 2020), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Amendment Notes — The first 2020 amendment (ch. 422), effective January 1, 2021, in the first paragraph, substituted “alcoholic beverages” for “intoxicating liquors” twice and “department” for “commission” twice, and deleted “to the holder of a research permit” preceding “as provided in Section 67-1-41.”

The second 2020 amendment (ch. 429), in the first paragraph, substituted “department” for “commission” twice, and added “or pursuant to Section 67-1-51.”

§ 67-1-46. Certain holders of manufacturer’s distiller’s permits authorized to provide limited amounts of alcoholic beverages on premises for tasting or sampling subject to certain conditions.

The holder of a manufacturer’s distiller’s permit who distills alcoholic beverages at a distillery located in this state may offer and provide limited amounts of alcoholic beverages on the premises of the distillery for the purpose of tasting or sampling, subject to the following conditions:

(a) The alcoholic beverages provided for tasting or sampling must be manufactured in this state by the holder of the permit operating the distillery at the site of and on the premises of the distillery;

(b) The alcoholic beverages may be provided only to persons on the premises of the distillery at no cost and for consumption on the premises of the distillery;

(c) The alcoholic beverages may be provided for tasting or sampling between the hours of 8:00 a.m. and 10:00 p.m. on the same day and only in conjunction with a structured tour of the distillery and related facilities which must include the entire manufacturing and distilling processes and methods used at the distillery;

(d) No one under twenty-one (21) years of age may participate in the tasting or sampling, and a sign indicating that prohibition shall be placed in a visible location at the entrance to the area where the tasting or sampling will be conducted;

(e) An individual size sample of alcoholic beverages shall not exceed one-fourth ($\frac{1}{4}$) ounce, and no more than four (4) samples of alcoholic beverages may be provided to an individual within a twenty-four-hour period; and

(f) The holder of the permit operating the distillery shall keep an accurate accounting of the various alcoholic beverages provided and consumed as samples.

HISTORY: Laws, 2013, ch. 352, § 1, eff from and after passage (approved March 18, 2013).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error by deleting the (1) designator at the beginning of the section. The Joint Legislative Committee ratified the correction at its August 1, 2013, meeting.

§ 67-1-51. Permits; distance regulations; prohibition on ownership of more than one package retailer's permit; prohibition on ownership of additional permits by persons living in same household [Paragraph (1)(r) repealed effective July 1, 2023].

[Through December 31, 2020, this section shall read as follows:]

(1) Permits which may be issued by the department shall be as follows:

(a) **Manufacturer's permit.** A manufacturer's permit shall permit the manufacture, importation in bulk, bottling and storage of alcoholic liquor and its distribution and sale to manufacturers holding permits under this chapter in this state and to persons outside the state who are authorized by law to purchase the same, and to sell exclusively to the department.

Manufacturer's permits shall be of the following classes:

Class 1. Distiller's and/or rectifier's permit, which shall authorize the holder thereof to operate a distillery for the production of distilled spirits by distillation or redistillation and/or to operate a rectifying plant for the purifying, refining, mixing, blending, flavoring or reducing in proof of distilled spirits and alcohol.

Class 2. Wine manufacturer's permit, which shall authorize the holder thereof to manufacture, import in bulk, bottle and store wine or vinous liquor.

Class 3. Native wine producer's permit, which shall authorize the holder thereof to produce, bottle, store and sell native wines.

(b) **Package retailer's permit.** Except as otherwise provided in this paragraph and Section 67-1-52, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcoholic beverages, including native wines, not to be consumed on the premises where sold. Alcoholic beverages shall not be sold by any retailer in any package or container containing less than fifty (50) milliliters by liquid measure. A package retailer's permit, with prior approval from the department, shall authorize the holder thereof to sample new product furnished by a manufacturer's representative or his employees at the permitted place of business so long as the sampling otherwise complies with this chapter and applicable depart-

ment regulations. Such samples may not be provided to customers at the permitted place of business. In addition to the sale at retail of packages of alcoholic beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers and other beverages commonly used to mix with alcoholic beverages. Nonalcoholic beverages sold by the holder of a package retailer's permit shall not be consumed on the premises where sold.

(c) **On-premises retailer's permit.** Except as otherwise provided in subsection (5) of this section, an on-premises retailer's permit shall authorize the sale of alcoholic beverages, including native wines, for consumption on the licensed premises only; however, a patron of the permit holder may remove one (1) bottle of wine from the licensed premises if: (i) the patron consumed a portion of the bottle of wine in the course of consuming a meal purchased on the licensed premises; (ii) the permit holder securely reseals the bottle; (iii) the bottle is placed in a bag that is secured in a manner so that it will be visibly apparent if the bag is opened; and (iv) a dated receipt for the wine and the meal is available. Additionally, as part of a carryout order, a permit holder may sell one (1) bottle of wine to be removed from the licensed premises for every two (2) entrees ordered. Such a permit shall be issued only to qualified hotels, restaurants and clubs, and to common carriers with adequate facilities for serving passengers. In resort areas, whether inside or outside of a municipality, the department, in its discretion, may issue on-premises retailer's permits to such establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcoholic beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcoholic beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales. If an on-premises retailer's permit is applied for by a common carrier operating solely in the water, such common carrier must, along with all other qualifications for a permit, (i) be certified to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers and (ii) operate primarily in the waters within the State of Mississippi which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi and/or on the Mississippi River or navigable waters within any county bordering on the Mississippi River.

(d) **Solicitor's permit.** A solicitor's permit shall authorize the holder thereof to act as salesman for a manufacturer or wholesaler holding a proper permit, to solicit on behalf of his employer orders for alcoholic beverages, and to otherwise promote his employer's products in a legitimate manner. Such a permit shall authorize the representation of and employment by one (1) principal only. However, the permittee may also, in the discretion of the department, be issued additional permits to represent other principals. No such permittee shall buy or sell alcoholic beverages for his own account, and no such beverage shall be brought into this state in pursuance of the exercise of such permit otherwise than through a permit issued to a wholesaler or manufacturer in the state.

(e) **Native wine retailer's permit.** Except as otherwise provided in subsection (5) of this section, a native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises consumption or to consumers in originally sealed and unopened containers at an establishment located on the premises of or in the immediate vicinity of a native winery. When selling to consumers for on-premises consumption, a holder of a native wine retailer's permit may add to the native wine alcoholic beverages not produced on the premises, so long as the total volume of foreign beverage components does not exceed twenty percent (20%) of the mixed beverage. Hours of sale shall be the same as those authorized for on-premises permittees in the city or county in which the native wine retailer is located.

(f) **Temporary retailer's permit.** Except as otherwise provided in subsection (5) of this section, a temporary retailer's permit shall permit the purchase and resale of alcoholic beverages, including native wines, during legal hours on the premises described in the temporary permit only.

Temporary retailer's permits shall be of the following classes:

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days prior to the proposed date or such other time as the department may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer a permit authorized in paragraph (c) of this subsection. A Class 2 permit may be issued only to applicants demonstrating to the department, by a statement signed under the penalty of perjury, that they meet the qualifications of Sections 67-1-5(l), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The department, following a preliminary review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2 temporary permittees must purchase their alcoholic beverages directly from the department or, with approval of the department, purchase the remaining stock of the previous permittee. If the proposed applicant of a Class 1 or Class 2 temporary permit falsifies information contained in the application or statement, the applicant shall never again be eligible for a retail alcohol beverage permit and shall be subject to prosecution for perjury.

Class 3. A temporary one-day permit may be issued to a retail establishment authorizing the complimentary distribution of wine, including native wine, to patrons of the retail establishment at an open house or promotional event, for consumption only on the premises described in the temporary permit. A Class 3 permit may be issued only to an applicant demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days before the proposed date or such other time as the department may determine, that it meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. A Class 3 permit holder shall obtain all alcoholic beverages from the holder(s) of a package retailer's permit located in the county in which the temporary permit is issued. Wine remaining in stock upon expiration of the temporary permit may be returned by the Class 3 temporary permit holder to the package retailer for a refund of the purchase price, with consent of the package retailer, or may be kept by the Class 3 temporary permit holder exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3 temporary permit shall not be issued to a retail establishment that either holds a merchant permit issued under paragraph (l) of this subsection, or holds a permit issued under Chapter 3, Title 67, Mississippi Code of 1972, authorizing the holder to engage in the business of a retailer of light wine, light spirit product or beer.

(g) **Caterer's permit.** A caterer's permit shall permit the purchase of alcoholic beverages by a person engaging in business as a caterer and the resale of alcoholic beverages by such person in conjunction with such catering business. No person shall qualify as a caterer unless forty percent (40%) or more of the revenue derived from such catering business shall be from the serving of prepared food and not from the sale of alcoholic beverages and unless such person has obtained a permit for such business from the Department of Health. A caterer's permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in business as a caterer; however, the holder of an on-premises retailer's permit may hold a caterer's permit. When the holder of an on-premises retailer's permit or an affiliated entity of the holder also holds a caterer's permit, the caterer's

permit shall not authorize the service of alcoholic beverages on a consistent, recurring basis at a separate, fixed location owned or operated by the caterer, on-premises retailer or affiliated entity and an on-premises retailer's permit shall be required for the separate location. All sales of alcoholic beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and, except as otherwise provided in subsection (5) of this section, such sales may be made only for consumption at the catered location. The location being catered may be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale and distribution of alcoholic beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcoholic Beverage Control Division of the department. No unsold alcoholic beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

(h) **Research permit.** A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcoholic beverages. Such permit shall authorize the holder of the permit to import and purchase limited amounts of alcoholic beverages from the department or from importers, wineries and distillers of alcoholic beverages for professional research.

(i) **Alcohol processing permit.** An alcohol processing permit shall authorize the holder thereof to purchase, transport and possess alcoholic beverages for the exclusive use in cooking, processing or manufacturing products which contain alcoholic beverages as an integral ingredient. An alcohol processing permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in the business of cooking, processing or manufacturing products which contain alcoholic beverages. The amounts of alcoholic beverages allowed under an alcohol processing permit shall be set by the department.

(j) **Hospitality cart permit.** A hospitality cart permit shall authorize the sale of alcoholic beverages from a mobile cart on a golf course that is the holder of an on-premises retailer's permit. The alcoholic beverages sold from the cart must be consumed within the boundaries of the golf course.

(k) **Special service permit.** A special service permit shall authorize the holder to sell commercially sealed alcoholic beverages to the operator of a commercial or private aircraft for en route consumption only by passengers. A special service permit shall be issued only to a fixed-base operator who contracts with an airport facility to provide fueling and other associated services to commercial and private aircraft.

(l) **Merchant permit.** Except as otherwise provided in subsection (5) of this section, a merchant permit shall be issued only to the owner of a spa facility, an art studio or gallery, or a cooking school, and shall authorize the holder to serve complimentary by the glass wine only, including native wine, at the holder's spa facility, art studio or gallery, or cooking school. A merchant permit holder shall obtain all wine from the holder of a package retailer's permit.

(m) **Temporary alcoholic beverages charitable auction permit.** A temporary permit, not to exceed five (5) days, may be issued to a qualifying charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986. The permit shall authorize the holder to sell alcoholic beverages for the limited purpose of raising funds for the organization during a live or silent auction that is conducted by the organization and that meets the following requirements: (i) the auction is conducted in an area of the state where the sale of alcoholic beverages is authorized; (ii) if the auction is conducted on the premises of an on-premises retailer's permit holder, then the alcoholic beverages to be auctioned must be stored separately from the alcoholic beverages sold, stored or served on the premises, must be removed from the premises immediately following the auction, and may not be consumed on the premises; (iii) the permit holder may not conduct more than two (2) auctions during a calendar year; (iv) the permit holder may not pay a commission or promotional fee to any person to arrange or conduct the auction.

(n) **Event venue retailer's permit.** An event venue retailer's permit shall authorize the holder thereof to purchase and resell alcoholic beverages, including native wines, for consumption on the premises during legal hours during events held on the licensed premises if food is being served at the event by a caterer who is not affiliated with or related to the permittee. The caterer must serve at least three (3) entrees. The permit may only be issued for venues that can accommodate two hundred (200) persons or more. The number of persons a venue may accommodate shall be determined by the local fire department and such determination shall be provided in writing and submitted along with all other documents required to be provided for an on-premises retailer's permit. The permittee must derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales for live entertainment in the building. "Event-related fees" do not include alcohol, beer, light spirit product or light wine sales or any fee which may be construed to cover the cost of alcohol, beer, light spirit product or light wine. This determination shall be made on a per event basis. An event may not last longer than two (2) consecutive days per week.

(o) **Temporary theatre permit.** A temporary theatre permit, not to exceed five (5) days, may be issued to a charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code and owns or operates a theatre facility that features plays and other theatrical performances and productions. Except as otherwise provided in subsection (5) of this section, the permit shall authorize the holder

to sell alcoholic beverages, including native wines, to patrons of the theatre during performances and productions at the theatre facility for consumption during such performances and productions on the premises of the facility described in the permit. A temporary theatre permit holder shall obtain all alcoholic beverages from package retailers located in the county in which the permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary theatre permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages.

(p) **Charter ship operator's permit.** Subject to the provisions of this paragraph (p), a charter ship operator's permit shall authorize the holder thereof and its employees to serve, monitor, store and otherwise control the serving and availability of alcoholic beverages to customers of the permit holder during private charters under contract provided by the permit holder. A charter ship operator's permit shall authorize such action by the permit holder and its employees only as to alcoholic beverages brought onto the permit holder's ship by customers of the permit holder as part of such a private charter. All such alcoholic beverages must be removed from the charter ship at the conclusion of each private charter. A charter ship operator's permit shall not authorize the permit holder to sell, charge for or otherwise supply alcoholic beverages to customers, except as authorized in this paragraph (p). For the purposes of this paragraph (p), "charter ship operator" means a common carrier that (i) is certified to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers, (ii) operates only in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, and (iii) provides charters under contract for tours and trips in such waters.

(q) **Distillery retailer's permit.** The holder of a Class 1 manufacturer's permit may obtain a distillery retailer's permit. A distillery retailer's permit shall authorize the holder thereof to sell at retail alcoholic beverages by the sealed and unopened bottle from a retail location at the distillery for off-premises consumption. The holder may only sell product manufactured by the manufacturer at the distillery described in the permit. The holder shall not sell at retail more than ten percent (10%) of the alcoholic beverages produced annually at its distillery. The holder shall not make retail sales of more than two and twenty-five one-hundredths (2.25) liters, in the aggregate, of the alcoholic beverages produced at its distillery to any one (1) individual for consumption off the premises of the distillery within a twenty-four-hour period. The hours of sale shall be the same as those hours for package retailers under this chapter. The holder of a distillery retailer's permit is not required to purchase the alcoholic beverages authorized to be sold by this paragraph from the department's liquor distribution warehouse; however, if the holder does not purchase the alcoholic beverages from the

department's liquor distribution warehouse, the holder shall pay to the department all taxes, fees and surcharges on the alcoholic beverages that are imposed upon the sale of alcoholic beverages shipped by the Alcoholic Beverage Control Division of the Department of Revenue. In addition to alcoholic beverages, the holder of a distillery retailer's permit may sell at retail promotional products from the same retail location, including shirts, hats, glasses, and other promotional products customarily sold by alcoholic beverage manufacturers.

(r) **Festival Wine Permit.** Any wine manufacturer or native wine producer permitted by Mississippi or any other state is eligible to obtain a Festival Wine Permit. This permit authorizes the entity to transport product manufactured by it to festivals held within the State of Mississippi and sell sealed, unopened bottles to festival participants. The holder of this permit may provide samples at no charge to participants. "Festival" means any event at which three (3) or more vendors are present at a location for the sale or distribution of goods. The holder of a Festival Wine Permit is not required to purchase the alcoholic beverages authorized to be sold by this paragraph from the department's liquor distribution warehouse. However, if the holder does not purchase the alcoholic beverages from the department's liquor distribution warehouse, the holder of this permit shall pay to the department all taxes, fees and surcharges on the alcoholic beverages sold at such festivals that are imposed upon the sale of alcoholic beverages shipped by the Alcoholic Beverage Control Division of the Department of Revenue. Additionally, the entity shall file all applicable reports and returns as prescribed by the department. This permit is issued per festival and provides authority to sell for two (2) consecutive days during the hours authorized for on premises permittees' sales in that county or city. The holder of the permit shall be required to maintain all requirements set by Local Option Law for the service and sale of alcoholic beverages. This permit may be issued to entities participating in festivals at which a Class 1 temporary permit is in effect.

This paragraph (r) shall stand repealed from and after July 1, 2023.

(2) Except as otherwise provided in subsection (4) of this section, retail permittees may hold more than one (1) retail permit, at the discretion of the department.

(3) Except as otherwise provided in this subsection, no authority shall be granted to any person to manufacture, sell or store for sale any intoxicating liquor as specified in this chapter within four hundred (400) feet of any church, school, kindergarten or funeral home. However, within an area zoned commercial or business, such minimum distance shall be not less than one hundred (100) feet.

A church or funeral home may waive the distance restrictions imposed in this subsection in favor of allowing issuance by the department of a permit, pursuant to subsection (1) of this section, to authorize activity relating to the manufacturing, sale or storage of alcoholic beverages which would otherwise be prohibited under the minimum distance criterion. Such waiver shall be in

written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a bed and breakfast inn listed in the National Register of Historic Places or to the sale or storage of alcoholic beverages in a historic district that is listed in the National Register of Historic Places, is a qualified resort area and is located in a municipality having a population greater than one hundred thousand (100,000) according to the latest federal decennial census.

(4) No person, either individually or as a member of a firm, partnership, limited liability company or association, or as a stockholder, officer or director in a corporation, shall own or control any interest in more than one (1) package retailer's permit, nor shall such person's spouse, if living in the same household of such person, any relative of such person, if living in the same household of such person, or any other person living in the same household with such person own any interest in any other package retailer's permit.

(5)(a) In addition to any other authority granted under this section, the holder of a permit issued under subsection (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may sell or otherwise provide alcoholic beverages and/or wine to a patron of the permit holder in the manner authorized in the permit and the patron may remove an open glass, cup or other container of the alcoholic beverage and/or wine from the licensed premises and may possess and consume the alcoholic beverage or wine outside of the licensed premises if: (i) the licensed premises is located within a leisure and recreation district created under Section 67-1-101 and (ii) the patron remains within the boundaries of the leisure and recreation district while in possession of the alcoholic beverage or wine.

(b) Nothing in this subsection shall be construed to allow a person to bring any alcoholic beverages into a permitted premises except to the extent otherwise authorized by this chapter.

[From and after January 1, 2021, this section shall read as follows:]

(1) Permits which may be issued by the department shall be as follows:

(a) **Manufacturer's permit.** A manufacturer's permit shall permit the manufacture, importation in bulk, bottling and storage of alcoholic liquor and its distribution and sale to manufacturers holding permits under this chapter in this state and to persons outside the state who are authorized by law to purchase the same, and to sell as provided by this chapter.

Manufacturer's permits shall be of the following classes:

Class 1. Distiller's and/or rectifier's permit, which shall authorize the holder thereof to operate a distillery for the production of distilled spirits by distillation or redistillation and/or to operate a rectifying plant for the purifying, refining, mixing, blending, flavoring or reducing in proof of distilled spirits and alcohol.

Class 2. Wine manufacturer's permit, which shall authorize the holder thereof to manufacture, import in bulk, bottle and store wine or vinous liquor.

Class 3. Native wine producer's permit, which shall authorize the holder thereof to produce, bottle, store and sell native wines.

(b) **Package retailer's permit.** Except as otherwise provided in this paragraph and Section 67-1-52, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcoholic beverages, including native wines, not to be consumed on the premises where sold. Alcoholic beverages shall not be sold by any retailer in any package or container containing less than fifty (50) milliliters by liquid measure. A package retailer's permit, with prior approval from the department, shall authorize the holder thereof to sample new product furnished by a manufacturer's representative or his employees at the permitted place of business so long as the sampling otherwise complies with this chapter and applicable department regulations. Such samples may not be provided to customers at the permitted place of business. In addition to the sale at retail of packages of alcoholic beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers and other beverages commonly used to mix with alcoholic beverages. Nonalcoholic beverages sold by the holder of a package retailer's permit shall not be consumed on the premises where sold.

(c) **On-premises retailer's permit.** Except as otherwise provided in subsection (5) of this section, an on-premises retailer's permit shall authorize the sale of alcoholic beverages, including native wines, for consumption on the licensed premises only; however, a patron of the permit holder may remove one (1) bottle of wine from the licensed premises if: (i) the patron consumed a portion of the bottle of wine in the course of consuming a meal purchased on the licensed premises; (ii) the permit holder securely reseals the bottle; (iii) the bottle is placed in a bag that is secured in a manner so that it will be visibly apparent if the bag is opened; and (iv) a dated receipt for the wine and the meal is available. Additionally, as part of a carryout order, a permit holder may sell one (1) bottle of wine to be removed from the licensed premises for every two (2) entrees ordered. Such a permit shall be issued only to qualified hotels, restaurants and clubs, and to common carriers with adequate facilities for serving passengers. In resort areas, whether inside or outside of a municipality, the department, in its discretion, may issue on-premises retailer's permits to such establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcoholic beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcoholic beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales. If an on-premises retailer's permit is applied for by a common carrier operating solely in the water, such common carrier must, along with all other qualifications for a

permit, (i) be certified to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers and (ii) operate primarily in the waters within the State of Mississippi which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi and/or on the Mississippi River or navigable waters within any county bordering on the Mississippi River.

(d) **Solicitor's permit.** A solicitor's permit shall authorize the holder thereof to act as salesman for a manufacturer or wholesaler holding a proper permit, to solicit on behalf of his employer orders for alcoholic beverages, and to otherwise promote his employer's products in a legitimate manner. Such a permit shall authorize the representation of and employment by one (1) principal only. However, the permittee may also, in the discretion of the department, be issued additional permits to represent other principals. No such permittee shall buy or sell alcoholic beverages for his own account, and no such beverage shall be brought into this state in pursuance of the exercise of such permit otherwise than through a permit issued to a wholesaler or manufacturer in the state.

(e) **Native wine retailer's permit.** Except as otherwise provided in subsection (5) of this section, a native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises consumption or to consumers in originally sealed and unopened containers at an establishment located on the premises of or in the immediate vicinity of a native winery. When selling to consumers for on-premises consumption, a holder of a native wine retailer's permit may add to the native wine alcoholic beverages not produced on the premises, so long as the total volume of foreign beverage components does not exceed twenty percent (20%) of the mixed beverage. Hours of sale shall be the same as those authorized for on-premises permittees in the city or county in which the native wine retailer is located.

(f) **Temporary retailer's permit.** Except as otherwise provided in subsection (5) of this section, a temporary retailer's permit shall permit the purchase and resale of alcoholic beverages, including native wines, during legal hours on the premises described in the temporary permit only.

Temporary retailer's permits shall be of the following classes:

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcoholic beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days prior to the proposed date or such other time as the department may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcoholic beverages from package retailers located in the county in which the temporary permit is

issued. Alcoholic beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer a permit authorized in paragraph (c) of this subsection. A Class 2 permit may be issued only to applicants demonstrating to the department, by a statement signed under the penalty of perjury, that they meet the qualifications of Sections 67-1-5(l), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The department, following a preliminary review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2 temporary permittees must purchase their alcoholic beverages directly from the department or, with approval of the department, purchase the remaining stock of the previous permittee. If the proposed applicant of a Class 1 or Class 2 temporary permit falsifies information contained in the application or statement, the applicant shall never again be eligible for a retail alcohol beverage permit and shall be subject to prosecution for perjury.

Class 3. A temporary one-day permit may be issued to a retail establishment authorizing the complimentary distribution of wine, including native wine, to patrons of the retail establishment at an open house or promotional event, for consumption only on the premises described in the temporary permit. A Class 3 permit may be issued only to an applicant demonstrating to the department, by a statement signed under penalty of perjury submitted ten (10) days before the proposed date or such other time as the department may determine, that it meets the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. A Class 3 permit holder shall obtain all alcoholic beverages from the holder(s) of a package retailer's permit located in the county in which the temporary permit is issued. Wine remaining in stock upon expiration of the temporary permit may be returned by the Class 3 temporary permit holder to the package retailer for a refund of the purchase price, with consent of the package retailer, or may be kept by the Class 3 temporary permit holder exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages. The department, following review of the statement provided by the applicant and the requirements of the applicable statutes and regulations, may issue the permit. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3

temporary permit shall not be issued to a retail establishment that either holds a merchant permit issued under paragraph (l) of this subsection, or holds a permit issued under Chapter 3, Title 67, Mississippi Code of 1972, authorizing the holder to engage in the business of a retailer of light wine or beer.

(g) **Caterer's permit.** A caterer's permit shall permit the purchase of alcoholic beverages by a person engaging in business as a caterer and the resale of alcoholic beverages by such person in conjunction with such catering business. No person shall qualify as a caterer unless forty percent (40%) or more of the revenue derived from such catering business shall be from the serving of prepared food and not from the sale of alcoholic beverages and unless such person has obtained a permit for such business from the Department of Health. A caterer's permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in business as a caterer; however, the holder of an on-premises retailer's permit may hold a caterer's permit. When the holder of an on-premises retailer's permit or an affiliated entity of the holder also holds a caterer's permit, the caterer's permit shall not authorize the service of alcoholic beverages on a consistent, recurring basis at a separate, fixed location owned or operated by the caterer, on-premises retailer or affiliated entity and an on-premises retailer's permit shall be required for the separate location. All sales of alcoholic beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and, except as otherwise provided in subsection (5) of this section, such sales may be made only for consumption at the catered location. The location being catered may be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale and distribution of alcoholic beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcoholic beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcoholic Beverage Control Division of the department. No unsold alcoholic beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcoholic Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcoholic beverages.

(h) **Research permit.** A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcoholic beverages. Such permit shall authorize the holder of the permit to import and purchase limited amounts of alcoholic beverages from the department or from importers, wineries and distillers of alcoholic beverages for professional research.

(i) **Alcohol processing permit.** An alcohol processing permit shall authorize the holder thereof to purchase, transport and possess alcoholic

beverages for the exclusive use in cooking, processing or manufacturing products which contain alcoholic beverages as an integral ingredient. An alcohol processing permit shall not authorize the sale of alcoholic beverages on the premises of the person engaging in the business of cooking, processing or manufacturing products which contain alcoholic beverages. The amounts of alcoholic beverages allowed under an alcohol processing permit shall be set by the department.

(j) **Hospitality cart permit.** A hospitality cart permit shall authorize the sale of alcoholic beverages from a mobile cart on a golf course that is the holder of an on-premises retailer's permit. The alcoholic beverages sold from the cart must be consumed within the boundaries of the golf course.

(k) **Special service permit.** A special service permit shall authorize the holder to sell commercially sealed alcoholic beverages to the operator of a commercial or private aircraft for en route consumption only by passengers. A special service permit shall be issued only to a fixed-base operator who contracts with an airport facility to provide fueling and other associated services to commercial and private aircraft.

(l) **Merchant permit.** Except as otherwise provided in subsection (5) of this section, a merchant permit shall be issued only to the owner of a spa facility, an art studio or gallery, or a cooking school, and shall authorize the holder to serve complimentary by the glass wine only, including native wine, at the holder's spa facility, art studio or gallery, or cooking school. A merchant permit holder shall obtain all wine from the holder of a package retailer's permit.

(m) **Temporary alcoholic beverages charitable auction permit.** A temporary permit, not to exceed five (5) days, may be issued to a qualifying charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code of 1986. The permit shall authorize the holder to sell alcoholic beverages for the limited purpose of raising funds for the organization during a live or silent auction that is conducted by the organization and that meets the following requirements: (i) the auction is conducted in an area of the state where the sale of alcoholic beverages is authorized; (ii) if the auction is conducted on the premises of an on-premises retailer's permit holder, then the alcoholic beverages to be auctioned must be stored separately from the alcoholic beverages sold, stored or served on the premises, must be removed from the premises immediately following the auction, and may not be consumed on the premises; (iii) the permit holder may not conduct more than two (2) auctions during a calendar year; (iv) the permit holder may not pay a commission or promotional fee to any person to arrange or conduct the auction.

(n) **Event venue retailer's permit.** An event venue retailer's permit shall authorize the holder thereof to purchase and resell alcoholic beverages, including native wines, for consumption on the premises during legal hours during events held on the licensed premises if food is being served at the event by a caterer who is not affiliated with or related to the permittee. The

caterer must serve at least three (3) entrees. The permit may only be issued for venues that can accommodate two hundred (200) persons or more. The number of persons a venue may accommodate shall be determined by the local fire department and such determination shall be provided in writing and submitted along with all other documents required to be provided for an on-premises retailer's permit. The permittee must derive the majority of its revenue from event-related fees, including, but not limited to, admission fees or ticket sales for live entertainment in the building. "Event-related fees" do not include alcohol, beer or light wine sales or any fee which may be construed to cover the cost of alcohol, beer or light wine. This determination shall be made on a per event basis. An event may not last longer than two (2) consecutive days per week.

(o) **Temporary theatre permit.** A temporary theatre permit, not to exceed five (5) days, may be issued to a charitable nonprofit organization that is exempt from taxation under Section 501(c)(3) or (4) of the Internal Revenue Code and owns or operates a theatre facility that features plays and other theatrical performances and productions. Except as otherwise provided in subsection (5) of this section, the permit shall authorize the holder to sell alcoholic beverages, including native wines, to patrons of the theatre during performances and productions at the theatre facility for consumption during such performances and productions on the premises of the facility described in the permit. A temporary theatre permit holder shall obtain all alcoholic beverages from package retailers located in the county in which the permit is issued. Alcoholic beverages remaining in stock upon expiration of the temporary theatre permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcoholic beverages.

(p) **Charter ship operator's permit.** Subject to the provisions of this paragraph (p), a charter ship operator's permit shall authorize the holder thereof and its employees to serve, monitor, store and otherwise control the serving and availability of alcoholic beverages to customers of the permit holder during private charters under contract provided by the permit holder. A charter ship operator's permit shall authorize such action by the permit holder and its employees only as to alcoholic beverages brought onto the permit holder's ship by customers of the permit holder as part of such a private charter. All such alcoholic beverages must be removed from the charter ship at the conclusion of each private charter. A charter ship operator's permit shall not authorize the permit holder to sell, charge for or otherwise supply alcoholic beverages to customers, except as authorized in this paragraph (p). For the purposes of this paragraph (p), "charter ship operator" means a common carrier that (i) is certified to carry at least one hundred fifty (150) passengers and/or provide overnight accommodations for at least fifty (50) passengers, (ii) operates only in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the

three (3) most southern counties in the State of Mississippi, and (iii) provides charters under contract for tours and trips in such waters.

(q) **Distillery retailer's permit.** The holder of a Class 1 manufacturer's permit may obtain a distillery retailer's permit. A distillery retailer's permit shall authorize the holder thereof to sell at retail alcoholic beverages by the sealed and unopened bottle from a retail location at the distillery for off-premises consumption. The holder may only sell product manufactured by the manufacturer at the distillery described in the permit. The holder shall not sell at retail more than ten percent (10%) of the alcoholic beverages produced annually at its distillery. The holder shall not make retail sales of more than two and twenty-five one-hundredths (2.25) liters, in the aggregate, of the alcoholic beverages produced at its distillery to any one (1) individual for consumption off the premises of the distillery within a twenty-four-hour period. The hours of sale shall be the same as those hours for package retailers under this chapter. The holder of a distillery retailer's permit is not required to purchase the alcoholic beverages authorized to be sold by this paragraph from the department's liquor distribution warehouse; however, if the holder does not purchase the alcoholic beverages from the department's liquor distribution warehouse, the holder shall pay to the department all taxes, fees and surcharges on the alcoholic beverages that are imposed upon the sale of alcoholic beverages shipped by the Alcoholic Beverage Control Division of the Department of Revenue. In addition to alcoholic beverages, the holder of a distillery retailer's permit may sell at retail promotional products from the same retail location, including shirts, hats, glasses, and other promotional products customarily sold by alcoholic beverage manufacturers.

(r) **Festival Wine Permit.** Any wine manufacturer or native wine producer permitted by Mississippi or any other state is eligible to obtain a Festival Wine Permit. This permit authorizes the entity to transport product manufactured by it to festivals held within the State of Mississippi and sell sealed, unopened bottles to festival participants. The holder of this permit may provide samples at no charge to participants. "Festival" means any event at which three (3) or more vendors are present at a location for the sale or distribution of goods. The holder of a Festival Wine Permit is not required to purchase the alcoholic beverages authorized to be sold by this paragraph from the department's liquor distribution warehouse. However, if the holder does not purchase the alcoholic beverages from the department's liquor distribution warehouse, the holder of this permit shall pay to the department all taxes, fees and surcharges on the alcoholic beverages sold at such festivals that are imposed upon the sale of alcoholic beverages shipped by the Alcoholic Beverage Control Division of the Department of Revenue. Additionally, the entity shall file all applicable reports and returns as prescribed by the department. This permit is issued per festival and provides authority to sell for two (2) consecutive days during the hours authorized for on-premises permittees' sales in that county or city. The holder of the permit shall be required to maintain all requirements set by Local Option Law for

the service and sale of alcoholic beverages. This permit may be issued to entities participating in festivals at which a Class 1 temporary permit is in effect.

This paragraph (r) shall stand repealed from and after July 1, 2023.

(2) Except as otherwise provided in subsection (4) of this section, retail permittees may hold more than one (1) retail permit, at the discretion of the department.

(3) Except as otherwise provided in this subsection, no authority shall be granted to any person to manufacture, sell or store for sale any intoxicating liquor as specified in this chapter within four hundred (400) feet of any church, school, kindergarten or funeral home. However, within an area zoned commercial or business, such minimum distance shall be not less than one hundred (100) feet.

A church or funeral home may waive the distance restrictions imposed in this subsection in favor of allowing issuance by the department of a permit, pursuant to subsection (1) of this section, to authorize activity relating to the manufacturing, sale or storage of alcoholic beverages which would otherwise be prohibited under the minimum distance criterion. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver, and the waiver shall be filed with and verified by the department before becoming effective.

The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcoholic beverages at a bed and breakfast inn listed in the National Register of Historic Places or to the sale or storage of alcoholic beverages in a historic district that is listed in the National Register of Historic Places, is a qualified resort area and is located in a municipality having a population greater than one hundred thousand (100,000) according to the latest federal decennial census.

(4) No person, either individually or as a member of a firm, partnership, limited liability company or association, or as a stockholder, officer or director in a corporation, shall own or control any interest in more than one (1) package retailer's permit, nor shall such person's spouse, if living in the same household of such person, any relative of such person, if living in the same household of such person, or any other person living in the same household with such person own any interest in any other package retailer's permit.

(5)(a) In addition to any other authority granted under this section, the holder of a permit issued under subsection (1)(c), (e), (f), (g), (l), (n) and/or (o) of this section may sell or otherwise provide alcoholic beverages and/or wine to a patron of the permit holder in the manner authorized in the permit and the patron may remove an open glass, cup or other container of the alcoholic beverage and/or wine from the licensed premises and may possess and consume the alcoholic beverage or wine outside of the licensed premises if: (i) the licensed premises is located within a leisure and recreation district created under Section 67-1-101 and (ii) the patron remains within the boundaries of the leisure and recreation district while in possession of the alcoholic beverage or wine.

(b) Nothing in this subsection shall be construed to allow a person to bring any alcoholic beverages into a permitted premises except to the extent otherwise authorized by this chapter.

HISTORY: Codes, 1942, §§ 10265-18, 10265-19, 10265-26; Laws, 1966, ch. 540, §§ 18, 19, 26; Laws, 1976, ch. 467, § 18; Laws, 1988, ch. 302, § 1; Laws, 1988, ch. 383, § 2; Laws, 1989, ch. 484, § 1; Laws, 1992, ch. 574, § 2; Laws, 1994, ch. 538, § 4; Laws, 1996, ch. 417, § 2; Laws, 1997, ch. 487, § 1; Laws, 2000, ch. 307, § 1; Laws, 2006, ch. 529, § 5; Laws, 2007, ch. 462, § 8; Laws, 2008, 1st Ex Sess, ch. 48, § 1; Laws, 2009, ch. 465, § 2; Laws, 2012, ch. 566, § 2; Laws, 2014, ch. 516, § 1; Laws, 2014, ch. 527, § 1; Laws, 2015, ch. 462, § 1; Laws, 2016, ch. 471, § 2, eff from and after July 1, 2016; Laws, 2018, ch. 382, § 1, eff from and after July 1, 2018; Laws, 2018, ch. 453, § 1, eff from and after passage (approved April 13, 2018); Laws, 2020, ch. 314, § 39, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 422, § 4, eff from and after January 1, 2021; Laws, 2020, ch. 423, § 6, eff from and after July 1, 2020; Laws, 2020, ch. 429, § 1, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 6, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 1 of Chapter 516, Laws of 2014, effective from and after July 1, 2014 (approved April 23, 2014), amended this section. Section 1 of Chapter 527, Laws of 2014, effective from and after July 1, 2014 (approved April 23, 2014), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 24, 2014, meeting of the Committee.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the second sentence of (1)(c) by substituting “Such a permit shall be issued only to...” for “Such a permit shall issue only to...” The Joint Committee ratified the correction at its July 24, 2014, meeting.

Section 1 of Chapter 382, Laws of 2018, effective July 1, 2018, amended this section. Section 1 of Chapter 453, Laws of 2018, effective upon passage (approved April 13, 2018), also amended this section. As set out above, this section reflects the language of Section 1 of Chapter 453, Laws of 2018, which contains language that specifically provides that it supersedes § 67-1-51 as amended by Chapter 382, Laws of 2018.

Section 39 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section. Section 4 of Chapter 422, Laws of 2020, effective from and after January 1, 2021 (approved June 30, 2020), Section 6 of Chapter 423, Laws of 2020, effective July 1, 2020 (approved June 30, 2020), Section 1 of Chapter 429, effective July 1, 2020 (approved July 1, 2020), and Section 6 of Chapter 458, effective July 1, 2020 (approved July 8, 2020) also amended this section. Amendments by Section 4 of Chapter 422, Section 6 of Chapter 423, Section 1 of Chapter 429, and Section 6 of Chapter 458 do not conform but do meet the Committee’s criteria for integration. Amendments by Section 39 of Chapter 314 do not conform and do not meet the Joint Committee’s criteria for integration and are superseded by the integrated version of the section. As set out above, this section reflects the language of amendments by Chapters 422, 423, 429 and 458, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate non-conforming amendments that meet the committee’s criteria so that all of those versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication

of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Editor's Notes — Laws of 2018, ch. 453, § 5, provides:

“SECTION 5. Sections 1 and 3 of this act shall take effect and be in force from and after the passage of this act [April 13, 2018] and the remainder of this act shall take effect and be in force from and after July 1, 2018.”

Amendment Notes — The first 2014 amendment (ch. 516), in (1)(b), inserted “and 67-1-52” following “provided in this paragraph” in the first sentence and, added the third and fourth sentences.

The second 2014 amendment (ch. 527) added (1)(n).

The 2015 amendment added (1)(o) and (p).

The 2016 amendment, in (1), added the exception at the beginning of the first sentence of (c), (e), (f) and (l) and the beginning of the second sentence of (o), and inserted “except as otherwise provided in subsection (5) of this section” in the fifth sentence of (1)(g); and added (5).

The first 2018 amendment (ch. 382) added the last sentence of (1)(c).

The second 2018 amendment (ch. 453), effective April 13, 2018, provided for two versions of the section; in the version effective through June 30, 2018, in (1)(m), substituted “alcoholic beverages” for “wine” once in the paragraph heading and four times in the paragraph text; and in the version effective from and after July 1, 2018, added the last sentence of (1)(c), and added (1)(q)).

The first 2020 amendment (ch. 314), effective June 18, 2020, in (1), inserted “light spirit product” in (f) and (n).

The second 2020 amendment (ch. 422), effective January 1, 2021, in (1)(a), substituted “and to sell as provided by this chapter” for “and to sell exclusively to the department.”

The third 2020 amendment (ch. 423), in the sixth sentence of (1)(g), substituted “the sale and distribution of alcoholic beverages” for “the sale, distribution and possession of alcoholic beverages.”

The fourth 2020 amendment (ch. 429), in (1), added the last two sentences in (e), and added (r).

The fifth 2020 amendment (ch. 458), in (1)(c), added the second sentence.

Cross References — Local Option Law, see § 67-1-1 et seq.

§ 67-1-52. Holder of package retailer's permit authorized to conduct tastings or samplings subject to certain conditions.

A package retailer's permit issued under Section 67-1-51(b) shall be authorized to offer tastings or samplings to be conducted at the package retailer's permitted place of business during which tastes or samples of alcoholic beverages or wine may be offered or served to consumers at no cost to the consumer. During a tasting or sampling authorized by this section, limited amounts of alcoholic beverages or wine may be consumed on the permitted place of business. A tasting or sampling shall not authorize the sale of alcoholic beverages or wine for consumption on the permitted place of business, but shall only authorize the limited consumption of alcoholic beverages or wine at the permitted place of business for the sole purpose of tasting or sampling various alcoholic beverages or wine. No one under twenty-one (21) years of age may participate in a tasting or sampling. No sample may be provided to a visibly intoxicated person. No food may be served or sold at a tasting or sampling. Each sample of wine served shall not exceed one and one-fourth

(1-1/4) ounces and no more than a cumulative total of five (5) ounces of wine may be dispensed to any one (1) person during a tasting or sampling. Each sample of a distilled spirit served shall not exceed one-fourth (1/4) of an ounce and no more than a cumulative total of one (1) ounce of distilled spirits may be dispensed to any one (1) person during a tasting or sampling. All product tasted or sampled must be provided by the package retailer from its inventory. Such product cannot be sample product provided by a manufacturer and must have been purchased from the department warehouse or from a licensed wholesaler. Employees of the package retailer may serve any product for tasting or sampling. In addition, a third party may serve any product for tasting or sampling and may open, touch and pour product as well as make a presentation and answer questions. The package retailer shall be responsible for all such actions by the third party. Tickets for a tasting or sampling shall not be sold in the permitted place of business or any other location.

HISTORY: Laws, 2014, ch. 516, § 2; Laws, 2015, ch. 329, § 1, eff from and after July 1, 2015; Laws, 2020, ch. 429, § 2, eff from and after July 1, 2020.

Amendment Notes — The 2015 amendment deleted the former last paragraph, which read: “This section shall be repealed from and after July 1, 2015.”

The 2020 amendment inserted “or wine” everywhere it appears; deleted “event” following “tasting or sampling” everywhere it appears; in the first sentence, substituted “shall be authorized to offer tastings or samplings to be conducted” for “shall, with prior written approval from the department, authorize tasting or sampling events to be conducted” and inserted “to the consumer”; deleted the former fourth sentence, which read: “A tasting or sampling event shall be conducted completely within an area that is cordoned off by barriers clearly separating the event from the point of sale of any alcoholic beverage and may last not longer than four (4) hours”; in the fourth sentence, deleted “and a sign indicating this shall be placed in a clearly visible location at the entrance to the area where the tasting or sampling event will be conducted” at the end; added the fifth sentence; deleted “at the event” following “sample of wine served” in the seventh sentence, following “distilled spirit served” in the eighth sentence, following “tasted or sampled” in the ninth sentence, and following “tasting or sampling” in the eleventh sentence; deleted “Only” in the eleventh sentence; added the twelfth and thirteenth sentences; and deleted the former last two sentences, which read: “The holder of a tasting or sampling event shall keep an accurate accounting of the various alcoholic beverages and amounts consumed at each tasting or sampling event and must provide a copy of the accounting to the department within ten (10) days of completion of the event. The holder of a package retailer’s permit may conduct not more than one (1) event in a three-month period.”

§ 67-1-57. Qualification of applicants.

Before a permit is issued the department shall satisfy itself:

(a) That the applicant, if an individual, or if a partnership, each of the members of the partnership, or if a corporation, each of its principal officers and directors, or if a limited liability company, each member of the limited liability company, is of good moral character and, in addition, enjoys a reputation of being a peaceable, law-abiding citizen of the community in which he resides, and is generally fit for the trust to be reposed in him, is not less than twenty-one (21) years of age, and has not been convicted of a felony in any state or federal court.

(b) That, except in the case of an application for a solicitor's permit, the applicant is the true and actual owner of the business for which the permit is desired, and that he intends to carry on the business authorized for himself and not as the agent of any other person, and that he intends to superintend in person the management of the business or that he will designate a manager to manage the business for him. All managers must be approved by the department prior to completing any managerial tasks on behalf of the permittee and must possess all of the qualifications required of a permittee; however, a felony conviction, other than a crime of violence, does not automatically disqualify a person from being approved as a manager if the person was released from incarceration at least three (3) years prior to application for approval as a manager. A felony conviction, other than a crime of violence, may be considered by the department in determining whether all other qualifications are met.

(c) That the applicant for a package retailer's permit, if an individual, is a resident of the State of Mississippi. If the applicant is a partnership, each member of the partnership must be a resident of the state. If the applicant is a limited liability company, each member of the limited liability company must be a resident of the state. If the applicant is a corporation, the designated manager of the corporation must be a resident of the state.

(d) That the place for which the permit is to be issued is an appropriate one considering the character of the premises and the surrounding neighborhood.

(e) That the place for which the permit is to be issued is within the corporate limits of an incorporated municipality or qualified resort area or club which comes within the provisions of this chapter.

(f) That the applicant is not indebted to the state for any taxes, fees or payment of penalties imposed by any law of the State of Mississippi or by any rule or regulation of the commission.

(g) That the applicant is not in the habit of using alcoholic beverages to excess and is not physically or mentally incapacitated, and that the applicant has the ability to read and write the English language.

(h) That the commission does not believe and has no reason to believe that the applicant will sell or knowingly permit any agent, servant or employee to unlawfully sell liquor in a dry area or in any other manner contrary to law.

(i) That the applicant is not residentially domiciled with any person whose permit or license has been cancelled for cause within the twelve (12) months next preceding the date of the present application for a permit.

(j) That the commission has not, in the exercise of its discretion which is reserved and preserved to it, refused to grant permits under the restrictions of this section, as well as under any other pertinent provision of this chapter.

(k) That there are not sufficient legal reasons to deny a permit on the ground that the premises for which the permit is sought has previously been operated, used or frequented for any purpose or in any manner that is lewd,

immoral or offensive to public decency. In the granting or withholding of any permit to sell alcoholic beverages at retail, the commission in forming its conclusions may give consideration to any recommendations made in writing by the district or county attorney or county, circuit or chancery judge of the county, or the sheriff of the county, or the mayor or chief of police of an incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the commission.

(l) That the applicant and the applicant's key employees, as determined by the commission, do not have a disqualifying criminal record. In order to obtain a criminal record history check, the applicant shall submit to the commission a set of fingerprints from any local law enforcement agency for each person for whom the records check is required. The commission shall forward the fingerprints to the Mississippi Department of Public Safety. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Costs for processing the set or sets of fingerprints shall be borne by the applicant. The commission shall not deny employment to an employee of the applicant prior to the identification of a disqualifying record or other disqualifying information.

HISTORY: Codes, 1942, § 10265-23; Laws, 1966, ch. 540, § 23; Laws, 1968, ch. 591, § 1; Laws, 1993, ch. 314, § 1; Laws, 2002, ch. 494, § 1, Laws, 2006, ch. 529, § 10; Laws, 2016, ch. 426, § 1, eff from and after July 1, 2016.

Amendment Notes — The 2016 amendment substituted “commission” for “department” in the introductory paragraph; and in (b), divided the former single sentence into the present first and second sentences by substituting “business for him. All managers must” for “business for him; must,” in the second sentence, substituted “department” for “commission,” inserted “prior to completing...on behalf of the permittee” and added “however, a felony...approval as a manager” at the end, and added the last sentence.

§ 67-1-71. Suspension and revocation of permits; reasonable notice of charges for which suspension or revocation is sought; hearing before Board of Tax Appeals; applicability of paragraph (i) to games or lotteries authorized by Mississippi lottery law.

The department may revoke or suspend any permit issued by it for a violation by the permittee of any of the provisions of this chapter or of the regulations promulgated under it by the department.

Permits must be revoked or suspended for the following causes:

(a) Conviction of the permittee for the violation of any of the provisions of this chapter;

(b) Willful failure or refusal by any permittee to comply with any of the provisions of this chapter or of any rule or regulation adopted pursuant thereto;

(c) The making of any materially false statement in any application for a permit;

(d) Conviction of one or more of the clerks, agents or employees of the permittee, of any violation of this chapter upon the premises covered by such permit within a period of time as designated by the rules or regulations of the department;

(e) The possession on the premises of any retail permittee of any alcoholic beverages upon which the tax has not been paid;

(f) The willful failure of any permittee to keep the records or make the reports required by this chapter, or to allow an inspection of such records by any duly authorized person;

(g) The suspension or revocation of a permit issued to the permittee by the federal government, or conviction of violating any federal law relating to alcoholic beverages;

(h) The failure to furnish any bond required by Section 27-71-21 within fifteen (15) days after notice from the department; and

(i) The conducting of any form of illegal gambling on the premises of any permittee or on any premises connected therewith or the presence on any such premises of any gambling device with the knowledge of the permittee.

The provisions of paragraph (i) of this section shall not apply to gambling or the presence of any gambling devices, with knowledge of the permittee, on board a cruise vessel in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, or on any vessel as defined in Section 27-109-1 whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River. The department may, in its discretion, issue on-premises retailer's permits to a common carrier of the nature described in this paragraph.

The provisions of paragraph (i) of this section shall not apply to the operation of any game or lottery authorized by Chapter 115, Title 27.

No permit shall be suspended or revoked until after the permittee has been provided reasonable notice of the charges against him for which suspension or revocation is sought and the opportunity to a hearing before the Board of Tax Appeals to contest such charges and the suspension or revocation proposed. Opportunity to a hearing is provided without an actual hearing if the permittee, after receiving reasonable notice, including notice of his right to a hearing, fails to timely request a hearing. The permittee may also at any time waive his rights to reasonable notice and/or to the opportunity to a hearing by agreeing to a suspension or revocation offered by the department. Notwithstanding the requirement above that a permit may not be suspended without notice and opportunity to a hearing, sales of alcoholic beverages by a permittee under a permit for which the bond under Section 27-71-21 has been cancelled shall be suspended from and after issuance of the notice provided in paragraph (h) above and shall continue to be suspended until the bond is reinstated, a new bond is posted or sufficient cash or securities as provided under Section 27-71-21 are deposited with the State Treasurer for this permit.

In addition to the causes specified in this section and other provisions of this chapter, the department shall be authorized to suspend the permit of any

permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Codes, 1942, § 10265-28; Laws, 1966, ch. 540, § 28; Laws, 1989, ch. 310, § 1; Laws, 1989, ch. 480, § 8; Laws, 1990, ch. 449, § 2; Laws, 1990, ch. 573, § 6; Laws, 1990 Ex Sess, ch. 45 § 146; Laws, 1992, ch. 459, § 2; Laws, 1996, ch. 507, § 17; Laws, 2009, ch. 492, § 134; Laws, 2010, ch. 388, § 13, *eff from and after July 1, 2010*; Laws, 2018, 1st Ex Sess, ch. 2, § 52, *eff from and after September 1, 2018*.

Amendment Notes — The 2018 1st Extraordinary Session amendment, effective September 1, 2018, in (i), added the third paragraph, and substituted “paragraph (h)” for subsection (h)” in the last sentence of the fourth paragraph.

§ 67-1-72. Appeal to Board of Tax Appeals from certain actions of the Department of Revenue; notice of hearing; order.

(1) Except as otherwise provided in this chapter, any applicant or holder of a permit issued under this chapter which is aggrieved by an action of the Department of Revenue to deny his application for a permit, to deny the renewal of his permit or to revoke or suspend his permit shall be allowed to appeal to the Board of Tax Appeals from this action. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that person received notice of the action of the department being aggrieved. If the person aggrieved fails to appeal within this fifteen-day period, the action of the Department of Revenue shall take effect as set out in the notice. The Department of Revenue retains the authority to change at any time the action aggrieved to in an appeal under this subsection. The applicant or holder of any permit issued under this chapter may waive his right to notice and opportunity to a hearing as provided by this subsection and agree to the action being taken by the department. The inability of the Department of Revenue to issue or renew a permit due to an incomplete application or due to the failure of the applicant to pay the annual privilege taxes and fees provided by Section 27-71-5 and/or the failure of the applicant to post or deposit the bond, cash or securities as required by Section 27-71-21 shall not constitute a denial for purposes of this subsection.

(2) Any applicant for approval as a manager of an establishment operating under a permit issued under this chapter or who holds the designation of an approved manager of an establishment operating under a permit issued

under this chapter and who is aggrieved by an action of the Department of Revenue to deny his application for approval as a manager or to revoke or suspend his designation as an approved manager shall be allowed to appeal to the Board of Tax Appeals from this action. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that person received notice of the action of the department being aggrieved. If the person aggrieved fails to appeal within this fifteen-day period, the action of the Department of Revenue shall take effect as set out in the notice. The Department of Revenue retains the authority to change at any time the action aggrieved to in an appeal under this subsection. The applicant or holder of an approved manager designation may waive his right to notice and opportunity to a hearing as provided by this subsection and agree to the action being taken by the department. The inability of the Department of Revenue to consider an application for approval of an applicant as a manager due to an incomplete application shall not constitute a denial of the application for purposes of this subsection.

(3) Any applicant for approval of an area or locality as a qualified resort area under this chapter who is aggrieved by the decision of the Department of Revenue to deny the qualified resort area as requested and any county or municipality wherein the proposed qualified resort area is located may appeal to the Board of Tax Appeals from such decision. This appeal is to be filed by the aggrieved applicant or by the affected county or municipality with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that the person or entity filing the appeal received notice of the decision of the Department of Revenue to deny the qualified resort area. If an appeal is not filed within this fifteen-day period, the decision of the Department of Revenue shall become final. The Department of Revenue retains the authority to change at any time the decision aggrieved to in an appeal under this subsection. The inability of the Department of Revenue to consider an application for the approval of an area or locality as a qualified resort area due to an incomplete application shall not constitute a denial of that application for purposes of this subsection.

(4) Any person, including any county or municipality in which the qualified resort area is located, who is aggrieved by the decision of the Department of Revenue to revoke the approval of an area or locality as a qualified resort area may appeal to the Board of Tax Appeals from such decision. This appeal is to be filed by the aggrieved person with the Executive Director of the Board of Tax Appeals, with a copy being sent to the Department of Revenue, within fifteen (15) days from the date that the person or entity filing the appeal received notice of the decision of the department to revoke approval of the qualified resort area. At the discretion of the Department of Revenue, in addition to any other notice to be provided under this subsection, the department may provide notice of its decision to revoke approval of the qualified resort area by publication in the same manner as provided by regulation when approval of a qualified resort area is sought. In regard to such

publication, the fifteen-day period provided herein will begin on the date that notice is first published. If an appeal is not filed within this fifteen-day period, the decision of the Department of Revenue shall become final. The Department of Revenue retains the authority to change at any time the decision aggrieved to in an appeal under this subsection.

(5) Any person objecting to an application for the issuance or transfer of a permit, other than a temporary retailer's permit, issued under this chapter and who timely requests in writing a hearing on his objection shall be given a hearing before the Board of Tax Appeals unless the permit is denied by the Department of Revenue and an appeal is not taken by the applicant to the Board of Tax Appeals from that denial or the applicant withdraws his application. Any written request for a hearing on an objection must be filed with the Department of Revenue within fifteen (15) days from the first date of publication of the notice of such application under Section 67-1-53. If the department determines that the permit should be denied, notice will be provided to the applicant as set out in subsection (1) of this section, and if the applicant timely requests a hearing on the denial as provided by this subsection (5), the department will advise the Executive Director of the Board of Tax Appeals and the applicant of the written request for a hearing on an objection to the permit. The hearing on the objection to the permit and the hearing on the appeal by the applicant from the denial of the department of the application shall be consolidated and heard by the Board of Tax Appeals at the same time. If the department determines that the permit should be issued, the department will advise the applicant and the Executive Director of the Board of Tax Appeals of the timely written request for a hearing on an objection to the application and a hearing will be set before the Board of Tax Appeals on this objection. If prior to the hearing, either the person requesting the hearing withdraws his request or the applicant withdraws his application, the hearing will be cancelled and the objection proceedings before the Board of Tax Appeals on the application will be dismissed as moot. In the case of such withdrawals, the Board of Tax Appeals is authorized to assess to either or both parties any costs incurred by it prior to such withdrawal. The Department of Revenue retains authority to issue the permit to the applicant where the person objecting to the application withdraws his request for a hearing.

(6) Any person objecting to an application for approval by the Department of Revenue of a area or locality as a qualified resort area under this chapter and who timely requests in writing a hearing on his objection shall be given a hearing before the Board of Tax Appeals unless approval of the application is denied by the Department of Revenue and an appeal is not taken by the applicant or the county or municipality in which the proposed qualified resort area is located to the Board of Tax Appeals from that denial or the applicant withdraws his application. Any written request for a hearing on an objection must be filed with the Department of Revenue within fifteen (15) days from the first date of publication of the notice of such application as provided by regulation. If the department determines that the application for approval of the proposed area or locality as a qualified resort area should be denied, the

department will proceed with denial of such application as set out in subsection (3) of this section, and if the applicant or the county or municipality in which the proposed qualified resort area is located timely requests a hearing on the denial as provided by subsection (3) of this section, the department will advise the Executive Director of the Board of Tax Appeals and the applicant of the written request for a hearing on an objection to the application. The hearing on the objection to approval of the proposed qualified resort area and the hearing on the appeal from the denial of the department of the application for such approval shall be consolidated and heard by the Board of Tax Appeals at the same time. If the department determines that the proposed qualified resort area should be approved, the department will advise the applicant and the Executive Director of the Board of Tax Appeals of the timely written request for a hearing on an objection to the application and a hearing will be set before the Board of Tax Appeals on this objection. If prior to the hearing, either the person requesting the hearing withdraws his request or the applicant withdraws his application, the hearing will be cancelled and the objection proceedings before the Board of Tax Appeals on the application will be dismissed as moot. In the case of such withdrawals, the Board of Tax Appeals is authorized to assess to either or both parties any costs incurred by it prior to such withdrawal. The Department of Revenue retains authority to approve the proposed area or locality as a qualified resort area where the person objecting to the application withdraws his request for a hearing.

(7) Any person having an interest in any alcoholic beverages, light wine, beer, light spirit products or raw materials which the Department of Revenue intends to dispose of under Section 67-1-18 shall be given reasonable notice of this proposed disposal, and upon such notice, this person may request a hearing before the Board of Tax Appeals to establish his right or claim to this property. This request for a hearing shall be filed with the Board of Tax Appeals, with a copy sent to the Department of Revenue, within fifteen (15) days from the date of receipt of the notice provided above by the person filing the request. If a request is not received by the Board of Tax Appeals within this fifteen-day period, the department may order the property disposed of in accordance with Section 67-1-18.

(8) Upon receipt of a written request for hearing or appeal as set out above, the executive director shall schedule a hearing before the Board of Tax Appeals on this request or appeal. A notice of the hearing shall be mailed to all persons or entities having an interest in the matter being heard which shall always include the person or entity filing the request or appeal for which the hearing is being set, the applicant or holder of any permit, approved manager status or qualified resort area status in issue, any person who filed a written request for a hearing on an objection to any application in issue and the Department of Revenue. This notice shall provide the date, time and location of the hearing. Mailing to the attorney representing a person or entity in the matter being heard shall be the same as mailing to the person or entity the attorney represents. Failure of the person or entity on whose request or appeal the matter was set for hearing to appear personally or through his designated

representative at the hearing shall constitute an involuntary withdrawal of his request or appeal. Upon such withdrawal, the Board of Tax Appeals shall note on the record the failure of the person or entity to appear at the hearing and shall dismiss the request or appeal and remand the matter back to the Department of Revenue for appropriate action.

(9) At any hearing before the Board of Tax Appeals on an appeal or hearing request as set out above, two (2) members of the Board of Tax Appeals shall constitute a quorum. At the hearing, the Board of Tax Appeals shall try the issues presented according to law and the facts and pursuant to any guidelines established by regulation. The rules of evidence shall be relaxed at the hearing and the hearing shall be recorded by a court reporter. After reaching a decision on the issues presented, the Board of Tax Appeals shall enter an order setting forth its findings and decision in the matter. A copy of the order of the Board of Tax Appeals shall be mailed to the person or entity filing the request or appeal which was heard, the applicant or holder of any permit, approved manager status or qualified resort area status in issue, any person who filed a written request for a hearing on an objection to any application in issue and the Department of Revenue to notify them of the findings and decision of the Board of Tax Appeals.

HISTORY: Laws, 2009, ch. 492, § 135; Laws, 2010, ch. 388, § 14; Laws, 2015, ch. 438, § 3, eff from and after passage (approved Apr. 13, 2015); Laws, 2020, ch. 314, § 40, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2015 amendment inserted “light wine, beer” in the first sentence of (7).

The 2020 amendment, effective June 18, 2020, inserted “light spirit products” in (7).

§ 67-1-75. Offenses by holder of package retailer’s permit or by employee thereof; penalty.

If the holder of a package retailer’s permit, or any employee thereof:

(a) Shall sell, offer for sale or permit to be sold in, on or about the premises covered by such permit any alcoholic beverages except in the original sealed and unopened packages; or

(b) Shall permit the drinking or consumption of any alcoholic beverages in, on or about the premises covered by such permit except as may be otherwise authorized by this chapter; or

(c) Shall sell, offer for sale or permit the sale in, on or about the premises of alcoholic beverages in any package or container containing less than fifty (50) milliliters by liquid measure; then such person or employee shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment, in the discretion of the court. In addition, in the case of the commission of any of such offenses by the holder of a permit, it shall be the duty of the commission forthwith to revoke the permit held by such person and conviction of the criminal offense shall not be a condition precedent to such revocation.

HISTORY: Codes, 1942, § 10265-25; Laws, 1966, ch. 540, § 25; Laws, 1977, ch. 418; Laws, 1988, ch. 383, § 3; Laws, 2014, ch. 516, § 3, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment added “except as may be otherwise authorized by this chapter” near the end of (b).

§ 67-1-77. Financial interest prohibition; exceptions; penalty.

(1) It shall be unlawful for the holder of a manufacturer’s or wholesaler’s permit, or anyone connected with the business of such holder, or for any other distiller, wine manufacturer, rectifier, blender or bottler, to have any financial interest in any premises upon which any alcoholic beverage is sold at retail by any permittee, or in the business conducted by such permittee, except that:

(a) The holder of a manufacturer’s or wholesaler’s permit may contract for the service of a representative in the area of governmental affairs on a part-time basis with a holder of an on-premises permit.

(b) A distiller, wine manufacturer, rectifier, blender or bottler may have a financial interest in a premises upon which alcoholic beverages are sold at retail by a permittee, or in the business conducted by a permittee, if the permittee does not sell or serve any alcoholic beverages that are distilled, manufactured, rectified, blended or bottled by the distiller, wine manufacturer, rectifier, blender or bottler having the financial interest in the premises or in the business conducted by a permittee.

(c) **[Through June 30, 2023]** A distiller, wine manufacturer, rectifier, blender or bottler may have a financial interest in and possess a distillery retailer’s permit and a wine festival permit.

(c) **[From and after July 1, 2023]** A distiller, wine manufacturer, rectifier, blender or bottler may have a financial interest in and possess a distillery retailer’s permit.

(d) The holder of a manufacturer’s permit which is located adjacent to the Mississippi Museum of Art and is bordered by Court Street, Farish Street, South Street and Town Creek may have a financial interest in a premises upon which alcoholic beverages are sold at retail.

(2) It shall also be unlawful for any such person, or anyone connected with his, its, or their business to lend any money or make any gift or offer any gratuity, to any retail permittee, except as authorized by regulations of the commission, to the holder of any retail permit issued under the provisions of this chapter. Except as above provided, no retail permittee shall accept, receive, or make use of any money or gift furnished by any such person, or become indebted to such person except for the purchase of alcoholic beverages.

(3) The commission shall not prohibit the furnishing of advertising specialties, printed materials, or other things having nominal value to a retail permittee. This section shall not be construed to prohibit the possession by any person of advertising specialties, printed materials, or other things having nominal value furnished by a retail permittee.

(4) Any person violating the provisions of this section shall, upon conviction, be punished by a fine of not more than Five Thousand Dollars (\$5,000.00)

or by imprisonment for not more than two (2) years, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: Codes, 1942, § 10265-26; Laws, 1966, ch. 540, § 26; Laws, 1985, ch. 422; Laws, 1986, ch. 450, § 2; Laws, 1989, ch. 361, § 1; Laws, 2007, ch. 302, § 1, eff from and after passage (approved Jan. 31, 2007); Laws, 2018, ch. 453, § 2, eff from and after July 1, 2018; Laws, 2020, ch. 429, § 7, eff from and after July 1, 2020; Laws, 2020, ch. 458, § 5, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 7 of Chapter 429, Laws of 2020, effective from and after July 1, 2020 (approved July 1, 2020), amended this section. Section 5 of Chapter 458, Laws of 2020, effective from and after July 1, 2020 (approved July 8, 2020), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Editor's Notes — Laws of 2018, ch. 453, § 5, provides:

“SECTION 5. Sections 1 and 3 of this act shall take effect and be in force from and after the passage of this act [April 13, 2018] and the remainder of this act shall take effect and be in force from and after July 1, 2018.”

Amendment Notes — The 2018 amendment deleted “brewer” preceding “rectifier” once in the introductory paragraph of (1) and twice in (1)(b), and deleted “brewed” preceding “rectified” in (1)(b); and added (1)(c).

The first 2020 amendment (ch. 429) provided for two versions of paragraph (1)(c), and in the version effective through June 30, 2023, added “and a wine festival permit.”

The second 2020 amendment (ch. 458) added (1)(d).

§ 67-1-81. Sales to minors prohibited; penalties.

(1)(a) Any permittee or other person who shall sell, furnish, dispose of, give, or cause to be sold, furnished, disposed of, or given, any alcoholic beverage to any person under the age of twenty-one (21) years shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for a first offense. For a second or subsequent offense, such permittee or other person shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Two Thousand Dollars (\$2,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment in the discretion of the court.

(b)(i) If a permittee, or any employee of a permittee, violates paragraph (a) of this subsection (1), then, in addition to any other penalty provided for by law, the commissioner may impose the following penalties against the permittee on whose premises the alcoholic beverages were sold, given or furnished:

1. For the first offense on the licensed premises, suspension of the permit for not more than one (1) week.
2. For a second offense occurring on the licensed premises within a

twelve-month period, suspension of the permit for not more than two (2) weeks.

3. For a third offense occurring on the licensed premises within a twelve-month period, suspension of the permit for not more than three (3) weeks or revocation of the permit.

4. For a fourth or subsequent offense occurring on the licensed premises within a twelve-month period, revocation of the permit.

A violation of paragraph (a) of this subsection (1) shall be sufficient to impose the administrative penalties authorized under this paragraph (b), and any expunction of conviction shall have no effect on any administrative penalty imposed against a permittee under this paragraph (b).

(2) Any person under the age of twenty-one (21) years who purchases, receives, or has in his or her possession in any public place, any alcoholic beverages, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00). Provided, that clearing or busing tables that have glasses or other containers that contain or did contain alcoholic beverages, or stocking, bagging or otherwise handling purchases of alcoholic beverages shall not be deemed possession of alcoholic beverages for the purposes of this section. Provided further, that a person who is at least eighteen (18) years of age but under the age of twenty-one (21) years who waits on tables by taking orders for or delivering orders of alcoholic beverages shall not be deemed to unlawfully possess or furnish alcoholic beverages if in the scope of his employment by the holder of an on-premises retailer's permit. This exception shall not authorize a person under the age of twenty-one (21) to tend bar or act in the capacity of bartender. Any person under the age of twenty-one (21) who knowingly makes a false statement to the effect that he or she is twenty-one (21) years old or older or presents any document that indicates he or she is twenty-one (21) years of age or older for the purpose of purchasing alcoholic beverages from any person engaged in the sale of alcoholic beverages shall be guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), and a sentence to not more than thirty (30) days' community service.

(3) The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

(4) If a person under the age of twenty-one (21) years is convicted or enters a plea of guilty of purchasing, receiving or having in his or her possession in any public place any alcoholic beverages in violation of subsection (2) of this section, the trial judge, in lieu of the penalties otherwise provided under subsection (2) of this section, shall suspend the minor's driver's license by taking and keeping it in the custody of the court for a period of time not to exceed ninety (90) days. The judge so ordering the suspension shall enter upon his docket "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF CONVICTION" and such action by the trial judge shall not constitute a conviction. During the period that the minor's driver's

license is suspended, the trial judge shall suspend the imposition of any fines or penalties that may be imposed under subsection (2) of this section and may place the minor on probation subject to such conditions as the judge deems appropriate. If the minor violates any of the conditions of probation, then the trial judge shall return the driver's license to the minor and impose the fines, penalties or both, that he would have otherwise imposed, and such action shall constitute a conviction.

HISTORY: Codes, 1942, § 10265-31; Laws, 1966, ch. 540, § 31; Laws, 1979, ch. 380; Laws, 1992, ch. 460, § 1; Laws, 2009, ch. 350, § 1, eff from and after July 1, 2009; Laws, 2020, ch. 470, § 1, eff from and after passage (approved July 8, 2020).

Amendment Notes — The 2020 amendment, effective July 8, 2020, designated former (1) as (1)(a) and deleted the former last sentence, which read: "Upon conviction of a second offense under the provisions of this section the permit of any permittee so convicted shall be automatically and permanently revoked"; and added (1)(b).

§ 67-1-85. Regulation of advertising and display of alcoholic beverages.

(1) The holder of a package retailer's permit may have signs, lighted or otherwise, on the outside of the premises covered by his permit which advertise, announce or advise of the sale of alcoholic beverages in or on said premises. Wherever the sign is located on the premises, the name of the business shall also include the permit number thereof, preceded by the words "A.B.C. Permit No."

(2) It shall be lawful to advertise alcoholic beverages by means of signs, billboards or displays on or along any road, highway, street or building.

(3) It shall be lawful for publishers, broadcasters and other kinds, types or forms of public and private advertising media to advertise alcoholic beverages; however, no alcoholic beverages may be advertised during, or within five (5) minutes preceding or following, any television broadcast which consists primarily of animated material intended for viewing by young children.

(4) Notwithstanding the provisions of this section to the contrary, it shall be unlawful to advertise alcoholic beverages by means of signs, billboards or displays in any municipality, county or judicial district which has not voted pursuant to the provisions of this chapter to legalize the sale of alcoholic beverages.

HISTORY: Codes, 1942, § 10265-33; Laws, 1966, ch. 540, § 33; Laws, 1968, ch. 592, § 1; Laws, 1971, ch. 350, § 1; Laws, 1982, ch. 419; Laws, 1986, ch. 450, § 1; Laws, 1988, ch. 562, § 2; Laws, 1990, ch. 569, § 5; Laws, 2017, ch. 393, § 1, eff from and after July 1, 2017.

Amendment Notes — The 2017 amendment rewrote (4), which read: "Notwithstanding the provisions of this section to the contrary, it shall be unlawful for any advertisement of alcoholic beverages to originate in any municipality, county or judicial district which has not voted pursuant to the provisions of this chapter to legalize the sale of alcoholic beverages, and it shall also be unlawful in such municipalities, counties

and judicial districts to advertise alcoholic beverages by means of signs, billboards or displays"; and made minor stylistic changes.

§ 67-1-101. Governing authorities of certain municipalities authorized to establish and/or modify leisure and recreation districts.

(1) For the purposes of this section, the following words shall have the following meanings ascribed in this section, unless the context clearly otherwise requires:

(a) "Municipality" means any incorporated city, town or village that has voted in favor of coming out from under the dry law or is in a county that has voted in favor of coming out from under the dry law

(b) "Leisure and recreation district" means an area officially designated by ordinance or resolution of the governing authorities of a municipality or county as a leisure and recreation district.

(c) "County" means any county that has voted in favor of coming out from under the dry law.

(2)(a) Subject to the provisions of this section, the governing authorities of a municipality, by ordinance, may establish one or more leisure and recreation districts within the corporate boundaries of the municipality and designate the geographic area or areas to be included within a district. The governing authorities of a municipality, by ordinance, may modify the boundaries of a leisure and recreation district. In addition, the boundaries of a leisure and recreation district may extend from within the municipality into the unincorporated area of the county in which the municipality is located if the county consents to the extension and has voted in favor of coming out from under the dry law.

(b) Subject to the provisions of this section, the board of Supervisors of a county, by resolution, may establish one or more leisure and recreation districts within the county that are outside the corporate limits of any municipality in the county and designate the geographic area or areas to be included within the districts.

(c) The designation or modification of the geographic area or areas as a leisure and recreation district shall include a detailed description of the area or areas within the district, boundaries of the district and a georeferenced map of the district. In addition to any other matters addressed in an ordinance or resolution establishing or modifying a leisure and recreation district, a municipality or county, as the case may be, must describe the manner in which the municipality or county, as the case may be, will provide for adequate law enforcement and other public safety measures and services within the district. Following the establishment and/or modification of a leisure and recreation district, the municipality or county, as the case may be, shall provide the Department of Revenue with (i) a copy of any ordinance or resolution relating to the establishment or modification of the district, (ii) verification from the municipal police department and/or applicable sheriff's

department indicating how such department will provide adequate law enforcement and other public safety measures and services within the district, and (iii) a list of persons or other entities that hold permits issued under Section 67-1-51(c), (e), (f), (g), (l), (n) or (o) and are located and/or doing business under such permits in the district at the time the district is established.

HISTORY: Laws, 2016, ch. 471, § 1; Laws, 2017, ch. 431, § 1, eff from and after July 1, 2017; Laws, 2018, ch. 328, § 1, eff from and after July 1, 2018.

Editor’s Notes — Laws of 2016, ch. 471, § 3 provides:

“SECTION 3. Section 1 of this act shall be codified as a new section in Chapter 1, Title 67, Mississippi Code of 1972.”

Amendment Notes — The 2017 amendment added (1)(a)(xiv) through (xxii) and made related stylistic changes; inserted “or county” near the end of (1)(b); substituted “one or more leisure” for “a leisure” in (2)(a)(ii); divided former (2)(a)(ii) into present (2)(a)(ii) and (ii)1, substituted “this item 1, and/or” for “this subparagraph (iii)” at the end of 1, and added 2; added (b)(i) and (ii), (c) and (d); redesignated former (b) as (e), and therein inserted “or county, as the case may be” twice in the second sentence and once in the third sentence, and inserted “or resolution” in the third sentence; and made minor stylistic changes.

The 2018 amendment, in (1)(a), deleted (i), which read: “Located in one (1) of the three (3) most southern counties in the State of Mississippi,” and deleted (ii) through (xxii), which listed the cities of Hattiesburg, Tupelo, Holly Springs, Greenville, Greenwood, Canton, Grenada, Starkville, Water Valley, Jackson, Senatobia, Corinth, Natchez, Laurel, Clinton, Cleveland, Vicksburg, Ridgeland, Brandon, Flowood, and Clarksdale, and added “that has voted in favor...under the dry law” at the end of the introductory paragraph; added (1)(c); deleted former (2)(a)(ii) and (iii), which provided descriptions of leisure and recreation districts established by the cities of Jackson and Senatobia, as defined in former paragraphs (1)(a)(xi) and (1)(a)(xii), respectively; deleted former (2)(b), which applied to Madison County; redesignated former (2)(c) as (2)(b), and therein substituted “a county” for “Lee County, Mississippi”; deleted former (2)(d), which applied to Rankin County; and redesignated former (2)(e) as (2)(c).

CHAPTER 3.

SALE OF LIGHT WINE, LIGHT SPIRIT PRODUCT, BEER AND OTHER ALCOHOLIC BEVERAGES

Sec.

- 67-3-1. Declaration of purpose.
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- 67-3-73. Immunity from liability of persons who lawfully furnished or sold intoxicating beverages to one causing damage.
- 67-3-74. Enforcement of certain provisions by officers of the division.

§ 67-3-1. Declaration of purpose.

The purpose of this chapter is to legalize the sale within this state of light wines, light spirit products and beer, to legalize the manufacture of beer, and to regulate the business of manufacturing and of selling light wines, light spirit products and beer so as to prevent the illicit manufacture, sale and consump-

tion of alcoholic beverages as defined in Section 67-1-5, the manufacture and sale of which it is not the purpose of this chapter to legalize.

HISTORY: Codes, 1942, § 10211; Laws, 1934, ch. 171; Laws, 1998, ch. 306, § 3; Laws, 2012, ch. 323, § 3; Laws, 2012, ch. 501, § 1, eff from and after July 1, 2012; Laws, 2020, ch. 314, § 1, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit products” twice.

§ 67-3-3. Definitions.

When used in this chapter, unless the context indicates otherwise:

(a) “Commissioner” means the Commissioner of Revenue of the Department of Revenue of the State of Mississippi, and his authorized agents and employees.

(b) “Person” means one or more persons, a company, a corporation, a partnership, a syndicate or an association.

(c) “Brewpub” shall have the meaning ascribed to such term in Section 27-71-301.

(d) “Beer” means a malt beverage as defined in the Federal Alcohol Administration Act and any rules and regulations adopted pursuant to such act of an alcoholic content of not more than eight percent (8%) by weight.

(e) “Light wine” means wine of an alcoholic content of not more than five percent (5%) by weight.

(f) “Small craft brewery” means a person having a permit under this chapter to manufacture or brew light wine, light spirit product or beer in this state and who manufactures or brews not more than sixty thousand (60,000) barrels of light wine, light spirit product or beer at all breweries that such person or its affiliates, subsidiary or parent company owns or controls or with whom such person contracts with for the manufacture of light wine, light spirit product or beer. For purposes of this paragraph, contract-brewed beer manufactured by a person having a permit under this chapter to manufacture or brew light wine, light spirit product or beer shall be included in the sixty-thousand-barrel limitation.

(g) “Growler” means a sealed container that holds not more than one hundred twenty-eight (128) ounces of light wine, light spirit product or beer. A growler must have a label on it stating what it contains.

(h) “Manufacturer” shall have the meaning ascribed to such term in Section 27-71-301.

(i) “Contract-brewed beer” means beer brewed by a manufacturer who:

(i) Makes the beer pursuant to a written contract with another beer manufacturer, and neither entity has a controlling interest in the other entity;

(ii) Makes the beer in accordance with a recipe that is a trade secret of the beer manufacturer having its beer made under contract; and

(iii) Has no right to sell the beer to any other beer manufacturer, importer or wholesaler other than the beer manufacturer who contracted for the beer.

(j) “Light spirit product” means a beverage of an alcoholic content of not more than four percent (4%) by weight and containing one or more distilled spirits, as defined in Section 67-1-5.

HISTORY: Codes, 1942, § 10210; Laws, 1934, ch. 171; Laws, 1998, ch. 308, § 8; Laws, 2003, ch. 322, § 1; Laws, 2009, ch. 492, § 136; Laws, 2012, ch. 323, § 1; Laws, 2017, ch. 345, § 4, eff from and after July 1, 2017; Laws, 2020, ch. 314, § 2, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2017 amendment rewrote (c), which read: “Manufacturer’ and ‘retailer’ include brewpubs licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi Code of 1972, unless otherwise clearly provided”; added (f) through (i); and made minor stylistic changes.

The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears in (f) and (g) and made related punctuation changes; and added (j).

§ 67-3-5. Light wines, light spirit products and beer legalized.

(1) It shall be lawful, subject to the provisions set forth in this chapter, in this state to transport, store, sell, distribute, possess, receive and/or manufacture wine, light spirit product and beer, and it is hereby declared that it is the legislative intent that this chapter privileges the lawful sale and manufacture, within this state, of such light wines, light spirit products and beer. In determining if a wine product is “light wine,” or contains an alcoholic content of more than five percent (5%) by weight, or is not an “alcoholic beverage” as defined in the Local Option Alcoholic Beverage Control Law, Chapter 1 of Title 67, Mississippi Code of 1972, the alcoholic content of such wine product shall be subject to the same permitted tolerance as is allowed by the labeling requirements for light wine provided for in Section 27-71-509.

(2) Subject to the provisions set forth in this chapter, it shall be lawful in this state to transport, store, sell, distribute, possess, receive, and/or manufacture beer of an alcoholic content of more than eight percent (8%) by weight, if the beer is manufactured to be sold legally in another state and is transported outside of this state for retail sale.

HISTORY: Codes, 1942, §§ 10207, 10228; Laws, 1934, ch. 171; Laws, 1987, ch. 355, § 2; Laws, 1998, ch. 306, § 4; Laws, 2012, ch. 323, § 4; Laws, 2012, ch. 501, § 2, eff from and after July 1, 2012; Laws, 2020, ch. 314, § 3, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” and “light spirit products” in (1).

§ 67-3-7. Local option elections in county.

(1) If any county, at an election held for the purpose under the election laws of the state, shall by a majority vote of the duly qualified electors voting in the election determine that the transportation, storage, sale, distribution, receipt and/or manufacture of wine, light spirit product and beer shall not be

permitted in such county, then the same shall not be permitted therein except as authorized under Section 67-9-1 and as may be otherwise authorized in this section. An election to determine whether such transportation, storage, sale, distribution, receipt and/or manufacture of such beverages shall be excluded from any county in the state, shall, on a petition of twenty percent (20%) of the duly qualified electors of such county, be ordered by the board of supervisors of the county, for such county only. No election on the question shall be held in any one (1) county more often than once in five (5) years.

In counties which have elected, or may elect by a majority vote of the duly qualified electors voting in the election, that the transportation, storage, sale, distribution, receipt and/or manufacture of wine, light spirit product or beer shall not be permitted in the county, an election may be held in the same manner as the election hereinabove provided on the question of whether or not the transportation, storage, sale, distribution, receipt and/or manufacture of said beverages shall be permitted in such county. Such election shall be ordered by the board of supervisors of such county on a petition of twenty percent (20%) of the duly qualified electors of such county. No election on this question can be ordered more often than once in five (5) years.

(2) Nothing in this section shall make it unlawful to possess beer, light spirit product or light wine, as defined herein.

(3) Nothing in this section shall make it unlawful to:

(a) Sell, distribute and transport light wine, light spirit product or beer to a qualified resort area as defined in Section 67-1-5;

(b) Sell light wine, light spirit product or beer at a qualified resort area as defined in Section 67-1-5 if such light wine, light spirit product or beer is sold by a person with a permit to engage in the business as a retailer of light wine, light spirit product or beer;

(c) Transport beer of an alcoholic content of more than eight percent (8%) by weight if it is being transported to another state for legal sale in that state;

(d) Transport legally purchased light wine, light spirit product or beer in unopened containers; however, this paragraph shall not apply to a retailer unless the retailer has purchased the light wine, light spirit product or beer from a wholesaler or distributor for the designated sales territory in which the retailer is located and the retailer has in his possession an invoice from the wholesaler or distributor for the light wine, light spirit product or beer; or

(e) Transport homemade beer as authorized in Section 67-3-11.

HISTORY: Codes, 1942, § 10208; Laws, 1934, ch. 171; Laws, 1942, ch. 224; Laws, 1956, ch. 252; Laws, 1958, ch. 279; Laws, 1996, ch. 417, § 9; Laws, 1998, ch. 306, § 5; Laws, 2004, ch. 397, § 5; Laws, 2012, ch. 323, § 5; Laws, 2012, ch. 501, § 3; Laws, 2013, ch. 345, § 2, eff from and after July 1, 2013; Laws, 2018, ch. 385, § 2, eff from and after July 1, 2018; Laws, 2020, ch. 314, § 4, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 423, § 7, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 4 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section.

Section 7 of Chapter 423, Laws of 2020, effective from and after July 1, 2020 (approved June 30, 2020), also amended the section. As set out above, this section reflects the language of Section 7 of Chapter 423, Laws of 2020, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date supersedes all other amendments to the same section approved on an earlier date.

Amendment Notes — The 2013 amendment added (3)(e); and made a minor stylistic change.

The 2018 amendment, in (3), added (e), and redesignated former (e) as (f).

The first 2020 amendment (ch. 314), effective June 18, 2020, inserted "light spirit product" everywhere it appears, and made related punctuation changes.

The second 2020 amendment (ch. 423), in (1), inserted "light spirit product" in the first sentences of the first and second paragraphs; rewrote (2), which read: "Nothing in this section shall make it unlawful to possess beer or wine, as defined herein, in any municipality which has heretofore or which may hereafter vote in an election, pursuant to Section 67-3-9, in which a majority of the qualified electors vote in favor of permitting the sale and the receipt, storage and transportation for the purpose of sale of beer or wine as defined herein"; and in (3), deleted former (a), which read: "Possess or consume light wine or beer at a qualified resort area as defined in Section 67-1-5," redesignated former (b) through (f) as (a) through (e), and therein inserted "light spirit product" everywhere it appears, and in (d) deleted "if it is being transported on a state or federal highway" following "unopened containers."

§ 67-3-9. Local option elections in certain municipalities.

Any city in this state, having a population of not less than two thousand five hundred (2,500) according to the latest federal decennial census; or any city in this state having a population of not less than one thousand five hundred (1,500) according to the latest federal decennial census and located within three (3) miles of a city or county that permits the sale, receipt, storage and transportation for the purpose of sale of beer, light spirit product or light wine; or any city or town in this state having a population of not less than one thousand (1,000) according to the latest federal decennial census and located in a county that has no city or town with a population of more than two thousand five hundred (2,500); or any city, town or village that is a county seat and has voted to come out from under the dry law under Section 67-1-14; at an election held for the purpose, under the election laws applicable to such city, may either prohibit or permit, except as otherwise provided under Section 67-9-1, the sale and the receipt, storage and transportation for the purpose of sale of beer, light spirit product and light wine. An election to determine whether such sale shall be permitted in cities wherein its sale is prohibited by law shall be ordered by the city or town council or mayor and board of aldermen or other governing body of such city or town for such city or town only, upon the presentation of a petition for such city or town to such governing board containing the names of twenty percent (20%) of the duly qualified voters of such city or town asking for such election. In like manner, an election to determine whether such sale shall be prohibited in cities wherein its sale is permitted by law shall be ordered by the city council or mayor and board of aldermen or other governing board of such city for such city only, upon the presentation of a petition to such governing board containing the names of

twenty percent (20%) of the duly qualified voters of such city asking for such election. No election on either question shall be held by any one (1) city more often than once in five (5) years.

Thirty (30) days' notice shall be given to the qualified electors of such city or town in the manner prescribed by law upon the question of either permitting or prohibiting such sale, and the notice shall contain a statement of the question to be voted on at the election. The tickets to be used in the election shall have the following words printed thereon: "For the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight"; and the words "Against the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight," next below. In making up his or her ticket the voter shall make a cross (X) opposite the words of his choice.

If in the election a majority of the qualified electors voting in the election shall vote "For the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight," then the city or town council or mayor and board of aldermen or other governing body shall pass the necessary order permitting the legal sale of such light wine, light spirit product and beer in such city or town. If in the election a majority of the qualified electors voting in the election shall vote "Against the legal sale of light wine of an alcoholic content of not more than five percent (5%) by weight, light spirit product of an alcoholic content of not more than four percent (4%) by weight, and beer of an alcoholic content of not more than eight percent (8%) by weight," then the city council or mayor and board of aldermen or other governing body shall pass the necessary order prohibiting the sale of such light wine, light spirit product and beer in such city.

All laws or parts of laws in conflict with this section are hereby repealed to the extent of such conflict only, this section being cumulative and supplementary.

HISTORY: Codes, 1942, § 10208.5; Laws, 1950, ch. 501, §§ 1-3; Laws, 1996, ch. 417, § 10; Laws, 1998, ch. 306, § 6; Laws, 2012, ch. 323, § 6; Laws, 2017, ch. 331, § 1, eff from and after passage (approved Mar. 13, 2017); Laws, 2020, ch. 314, § 5, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 431, § 1, eff from and after passage (approved July 1, 2020).

Joint Legislative Commission — Section 5 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section. Section 1 of Chapter 431, Laws of 2020, effective from and after passage (approved July 1, 2020), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amend-

ments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Amendment Notes — The 2017 amendment, effective March 13, 2017, inserted “or any city in this state...for the purpose of sale of beer or light wine” in the first sentence.

The first 2020 amendment (ch. 314), effective June 18, 2020, in the first paragraph, inserted “light spirit product” twice; in the second paragraph, inserted “light spirit product of an alcoholic content of not more than four percent (4%) by weight” twice; and in the third paragraph, inserted “light spirit product of an alcoholic content of not more than four percent (4%) by weight” twice, and inserted “light spirit product” twice.

The second 2020 amendment (ch. 431), effective July 1, 2020, inserted “decennial” twice and “or any city or town in this state...under the dry law under Section 67-1-14” in the first sentence of the first paragraph; inserted “or town” throughout the rest of the section; and inserted “or her” in the last sentence of the second paragraph.

§ 67-3-11. Homemade wine or beer.

(1) Every person shall have the right to make homemade wine for domestic or household uses only, free of all restraint by this chapter or otherwise, and no such election as provided for in Sections 67-3-7, 67-3-9 and 67-3-13, shall deprive any person of the right to make homemade wine for domestic or household uses only.

(2)(a) Every person twenty-one (21) years of age or older shall have the right to make homemade beer for personal, family, domestic or household uses without restraint by this chapter or otherwise.

(b) The maximum amount of homemade beer that a person may make in a calendar year shall not exceed:

(i) One hundred (100) gallons if there is only one (1) person over the age of twenty-one (21) years of age residing in the household; and

(ii) Two hundred (200) gallons if there are two (2) or more persons over the age of twenty-one (21) years residing in the household.

(c) A person who makes homemade beer as authorized in this section may remove the beer from the premises of the household where it is made and transport the beer only for the purpose of participating in a bona fide exhibition, contest or competition where homemade beer is being tasted and judged; however, homemade beer may not be sold or offered for sale under any circumstances.

HISTORY: Codes, 1942, §§ 10209, 10227; Laws, 1934, ch. 171; Laws, 2013, ch. 345, § 1, eff from and after July 1, 2013; Laws, 2020, ch. 314, § 6, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 423, § 8, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 6 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section. Section 8 of Chapter 423, Laws of 2020, effective from and after July 1, 2020 (approved June 30, 2020), also amended the section. As set out above, this section reflects the language of Section 8 of Chapter 423, Laws of 2020, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date supersedes all other amendments to the same section approved on an earlier date.

Amendment Notes — The 2013 amendment added (2).

The first 2020 amendment (ch. 314), effective June 18, 2020, inserted “light spirit product” in (2)(a).

The second 2020 amendment (ch. 423), in (2)(a), deleted “if the beer is made in a county or municipality in which the possession of light wine or beer is lawful” from the end.

§ 67-3-13. Possession of light wine, light spirit product and beer in dry counties; seizure and disposal of for violation of section.

(1) It shall be lawful to possess beer, light spirit product and light wine throughout the state, unless otherwise prohibited by this chapter. However, nothing herein shall be construed to make lawful the possession of beer, light spirit product or light wine with the intent to sell except as authorized by this chapter.

(2) In any county or municipality in which the transportation, storage, sale, distribution, receipt and/or manufacture of light wine, light spirit product and beer is prohibited, it shall not be unlawful for a permitted wholesaler or distributor to possess light wine, light spirit product and beer when such light wine, light spirit product and beer is held therein solely for the purpose of storage and for distribution to other counties and municipalities in which transportation, storage, sale, distribution, receipt and/or manufacture is lawful.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, in any county in which transportation, storage, sale, distribution, receipt and/or manufacture of light wine, light spirit product and beer is prohibited, it shall not be unlawful:

(a) To receive or store light wine, light spirit product or beer at a resort area as defined in Section 67-1-5;

(b) To distribute and transport light wine, light spirit product or beer to a resort area as defined in Section 67-1-5;

(c) To transport beer of an alcoholic content of more than eight percent (8%) by weight if it is being transported to another state for legal sale in that state;

(d) To transport legally purchased light wine, light spirit product or beer in unopened containers if it is being transported on a state or federal highway; however, this paragraph shall not apply to a retailer unless the retailer has purchased the light wine, light spirit product or beer from a wholesaler or distributor for the designated sales territory in which the retailer is located and the retailer has in his possession an invoice from the wholesaler or distributor for the light wine, light spirit product or beer; or

(e) To transport homemade beer as authorized in Section 67-3-11.

(4) Any light wine, light spirit product or beer found in possession of, or sold by, a person in violation of this section shall be seized and disposed of in the manner provided for in Section 67-1-18.

HISTORY: Codes, 1942, § 10208; Laws, 1934, ch. 171; Laws, 1942, ch. 224;

Laws, 1956, ch. 252; Laws, 1958, ch. 279; Laws, 1987, ch. 349; Laws, 1996, ch. 417, § 11; Laws, 1998, ch. 306, § 7; Laws, 2004, ch. 397, § 6; Laws, 2012, ch. 323, § 7; Laws, 2012, ch. 501, § 4; Laws, 2013, ch. 345, § 3; Laws, 2015, ch. 438, § 4, eff from and after passage (approved Apr. 13, 2015); Laws, 2018, ch. 385, § 3, eff from and after July 1, 2018; Laws, 2020, ch. 314, § 7, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 423, § 9, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error by adding “To” at the beginning of (d). The Joint Legislative Committee ratified the correction at its August 1, 2013, meeting.

Section 7 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section. Section 9 of Chapter 423, Laws of 2020, effective from and after July 1, 2020 (approved June 30, 2020), also amended the section. As set out above, this section reflects the language of Section 9 of Chapter 423, Laws of 2020, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date supersedes all other amendments to the same section approved on an earlier date.

Amendment Notes — The 2013 amendment added (3)(d); and made a minor stylistic change.

The 2015 amendment added (4).

The 2018 amendment, in (3), added (d), and redesignated former (d) as (e).

The first 2020 amendment (ch. 314), effective June 18, 2020, in (1), inserted “light spirit product of an alcoholic content of not more than four percent (4%) by weight,” “wine, light spirit product or” and “light spirit product”; and inserted “light spirit product” everywhere it appears in (2) through (4), and made related punctuation changes.

The second 2020 amendment (ch. 423) rewrote (1), which made the possession of alcoholic beverages in counties that elected to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of certain wines and beer in such counties unlawful; inserted “light spirit product” everywhere it appears in (2) through (4); in (2), deleted “Notwithstanding the provisions of subsection (1) of this section” at the beginning, and substituted “in which transportation, storage, sale, distribution, receipt and/or manufacture is lawful” for “in which possession of such beverages is lawful” at the end; and in (3)(a), substituted “receive or store” for “receive, store, possess or consume.”

JUDICIAL DECISIONS

3. Effect.

Defendant’s conviction under Miss. Code Ann. §§ 67-3-13(1) (Supp. 2013) was reversed where missing from the evidence presented at trial and the jury instructions was any mention of the second es-

sential element, i.e., that the county where the beer was purchased had elected to prohibit the sale and possession of beer. *Davis v. State*, 138 So. 3d 965, 2014 Miss. App. LEXIS 259 (Miss. Ct. App. 2014).

§ 67-3-15. Permit and/or license required.

(1) Any person who shall brew or manufacture or sell any beer, light spirit product or light wine without first having secured a permit and/or license from the commissioner authorizing the brewing or manufacture or sale of such liquor, shall be guilty of a misdemeanor and, upon conviction thereof, be

punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not more than one (1) year, or both, in the discretion of the court. Any person so convicted may not apply for any permit or license issued by the commissioner until five (5) years have elapsed from the date of such conviction.

(2) This section shall not apply to beer authorized to be made pursuant to Section 67-3-11.

(3) Any light wine, light spirit product or beer found in possession of, or sold by, a person in violation of this section shall be seized and disposed of in the manner provided for in Section 67-1-18.

HISTORY: Codes, 1942, § 10212; Laws, 1934, ch. 171; Laws, 1997, ch. 499, § 10; Laws, 2000, ch. 435, § 8; Laws, 2013, ch. 345, § 4; Laws, 2015, ch. 438, § 5, eff from and after passage (approved Apr. 13, 2015); Laws, 2020, ch. 314, § 8, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2013 amendment added (2).

The 2015 amendment added (3).

The 2020 amendment, effective June 18, 2020, inserted “light spirit product” in (1) and (3).

§ 67-3-17. Application for permit; oath.

(1) Any person desiring to engage in any business taxable under Sections 27-71-303 through 27-71-317, Mississippi Code of 1972, either as a retailer, or as a wholesaler or distributor, or as a manufacturer, of light wines, light spirit products or beer, shall file with the commissioner an application for a permit allowing him to engage in such business. The application for a permit shall contain a statement showing the name of the business, and if a partnership, firm, association or limited liability company, the name of each partner or member, and if a corporation the names of two (2) principal officers, the post office address, and the nature of business in which engaged. In case any business is conducted at two (2) or more separate places, a separate permit for each place of business shall be required. The commissioner shall prescribe the form of the application and designate who is required to sign the application. The application shall be signed under penalty of perjury.

(2) The application shall include a statement that the applicant will not, except as otherwise authorized in this chapter, allow any alcoholic beverages as defined in Section 67-1-5, any beer having an alcoholic content of more than eight percent (8%) by weight, any spirit product having an alcoholic content of more than four percent (4%) by weight, or any wine having an alcoholic content of more than five percent (5%) by weight, to be kept, stored or secreted in or on the premises described in such permit or license, and that the applicant will not otherwise violate any law of this state, or knowingly allow any other person to violate any such law, while in or on such premises.

(3) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

HISTORY: Codes, 1942, § 10238; Laws, 1934, ch. 127; Laws, 1997, ch. 588, § 22; Laws, 1998, ch. 306, § 8; Laws, 2012, ch. 323, § 8; Laws, 2012, ch. 501, § 5; Laws, 2012, ch. 566, § 3, eff from and after July 1, 2012; Laws, 2020, ch. 314, § 9, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, in (1), inserted “light spirit products” in the first sentence; in (2), inserted “any spirit product having an alcoholic content of more than four percent (4%) by weight”; and made related punctuation changes.

§ 67-3-19. Qualifications of applicant for permit as retailer.

Where application is made for a permit to engage in the business of a retailer of light wine, light spirit product or beer, the applicant shall show in his application that he possesses the following qualifications:

(a) Applicant must be a person at least twenty-one (21) years of age, of good moral character and a resident of the State of Mississippi.

(b) Applicant shall not have been convicted of a felony, or of pandering or of keeping or maintaining a house of prostitution, or have been convicted within two (2) years of the date of his application of any violation of the laws of this state or the laws of the United States relating to alcoholic liquor.

(c) Applicant shall not have had revoked, except for a violation of Section 67-3-52, within two (2) years next preceding his application, any license or permit issued to him pursuant to the laws of this state, or any other state, to sell alcoholic liquor of any kind.

(d) Applicant shall be the owner of the premises for which the permit is sought or the holder of an existing lease thereon.

(e) Applicant shall not be residentially domiciled with any person whose permit has been revoked for cause, except for a violation of Section 67-3-52, within two (2) years next preceding the date of the present application for a permit.

(f) The applicant has not had any license or permit to sell beer, light spirit product or light wine at retail revoked, within five (5) years next preceding his application, due to a violation of Section 67-3-52.

(g) Applicant shall not employ any person whose permit has been revoked when such person owned or operated the business on the premises for which a permit is sought or allow such person to have any financial interest in the business of the applicant, until such person is qualified to obtain a permit in his own name.

(h) The applicant is not indebted to the State of Mississippi for any taxes.

(i) If applicant is a partnership, all members of the partnership must be qualified to obtain a permit. Each member of the partnership must be a resident of the State of Mississippi.

(j) If applicant is a corporation, all officers and directors thereof, and any stockholder owning more than five percent (5%) of the stock of such corporation, and the person or persons who shall conduct and manage the licensed premises for the corporation shall possess all the qualifications

required herein for any individual permittee. However, the requirements as to residence shall not apply to officers, directors and stockholders of such corporation.

Any misstatement or concealment of fact in an application shall be ground for denial of the application or for revocation of the permit issued thereon.

The commissioner may refuse to issue a permit to an applicant for a place that is frequented by known criminals, prostitutes, or other law violators or troublemakers who disturb the peace and quietude of the community and frequently require the assistance of peace officers to apprehend such law violators or to restore order. The burden of proof of establishing the foregoing shall rest upon the commissioner.

HISTORY: Codes, 1942, § 10238-01; Laws, 1944, ch. 133, § 1; Laws, 1968, ch. 590, § 1; Laws, 1995, ch. 366, § 1; Laws, 1998, ch. 466, § 2; Laws, 2007, ch. 462, § 2, eff from and after passage (approved Mar. 26, 2007); Laws, 2020, ch. 314, § 10, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” in the introductory paragraph and in (f); and made related punctuation changes.

§ 67-3-22. Brewpub production limits and unlawful acts.

(1) The production limits for a brewpub shall be based upon production as determined by the Department of Revenue pursuant to Section 27-71-307, Mississippi Code of 1972, and a brewpub shall not manufacture more than seventy-five thousand (75,000) gallons of light wine or beer per calendar year.

(2) Light wine or beer produced at a brewpub shall not be sold at a price less than it cost to manufacture such light wine or beer.

(3) A brewpub shall be required to offer for sale light wine or beer that is normally carried on the inventory of wholesalers or distributors of light wine or beer.

HISTORY: Laws, 1998, ch. 308, § 14, eff July 1, 1998, and shall stand repealed from and after July 1, 2002; Laws, 2002, ch. 305, § 1; Laws, 2017, ch. 345, § 3, eff from and after July 1, 2017; Laws, 2020, ch. 314, § 11, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 347, § 1, eff from and after July 1, 2020; Laws, 2020, ch. 347, § 1, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 11 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section. Section 1 of Chapter 347, Laws of 2020, effective from and after July 1, 2020 (approved June 23, 2020), also amended this section. As set out above, this section reflects the language of Section 1 of Chapter 347, Laws of 2020, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Amendment Notes — The 2017 amendment rewrote (1) to revise the beer production limits that apply to brewpubs; in (3), added the exception at the beginning, added the last sentence, and made a minor stylistic change; and deleted (5), which defined

“hospitality operator.”

The first 2020 amendment (ch. 314), effective June 18, 2020, inserted “light spirit product” everywhere it appears.

The second 2020 amendment (ch. 347) deleted former (3), which read: “Except as otherwise provided in this subsection, light wine or beer manufactured by a brewpub shall not be sold away from the premises of such brewpub (as defined in Section 27-71-301, Mississippi Code of 1972) and shall not be packaged in any form that it may be carried away from the premises; however, the final one hundred (100) gallons of beer within a fermenting tank may be placed in kegs for sale on the premises to facilitate transition from one fermenting tank to another. A brewpub may sell light wine or beer manufactured by it for consumption off the premises of the brewpub if the light wine or beer so sold is contained in a growler”; and redesignated former (4) as (3).

§ 67-3-25. Sales authorized by permit; expiration of permit; annual renewal; temporary permits; contents of permit.

(1) Any permit issued authorizing the sale of light wines, light spirit products and/or beer for consumption shall be construed to authorize the sale of light wines, light spirit products and/or beer by the bottle, by the glass or by draught, and in or from the original package.

(2) The commissioner is authorized to establish, in his discretion, dates for the expiration of permits issued under this chapter.

(3) Except as otherwise provided in this section, permits shall be issued for twelve (12) months and shall be renewed annually on the first day of the month in which the permit expires. The commissioner may issue temporary permits for less than a full year. All permits shall show the effective date and expiration date of the permit, the business location, individual or business name and mailing address of the permittee.

HISTORY: Codes, 1942, §§ 10213, 10216; Laws, 1934, ch. 171; Laws, 1946, ch. 383; Laws, 1977, ch. 337; Laws, 2011, ch. 396, § 1, eff from and after July 1, 2011; Laws, 2020, ch. 314, § 12, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, in (1), inserted “light spirit products” twice, and made related punctuation changes.

§ 67-3-27. Licenses.

Before any person shall engage in the business of manufacturer, wholesaler, distributor or retailer of light wines, light spirit products or beer, he shall apply to the commissioner for a license to engage in such business, and shall pay to the commissioner the specific tax imposed by Section 27-71-303, for the privilege of engaging in such business. The commissioner upon receipt of such tax shall issue to such person a privilege license to engage in or continue in such business for a period of time not to exceed one (1) year. No such license shall be issued to the applicant unless such applicant shall have obtained from the commissioner a permit as required in Section 67-3-17. A brewpub shall obtain all necessary federal licenses and permits prior to obtaining any license under this chapter.

All privilege licenses issued under the provisions of this section shall be renewed annually on or before the first day of the month in which the current license expires.

HISTORY: Codes, 1942, § 10239; Laws, 1934, ch. 127; Laws, 1979, ch. 423, § 3; Laws, 1998, ch. 308, § 9, eff from and after July 1, 1998; Laws, 2020, ch. 314, § 13, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit products” in the first sentence.

§ 67-3-28. Brewpub alcoholic content testing requirements.

(1) Any person desiring to engage in business as a brewpub shall file with the commissioner, along with the application required by Section 67-3-17, Mississippi Code of 1972, a certificate issued by a licensed testing laboratory indicating that such laboratory has tested a sample of the applicant’s beer, light spirit product or light wine, or a combination thereof, and that the alcohol content of such sample of beer does not exceed eight percent (8%) by weight, and the alcohol content of such sample of light spirit product does not exceed four percent (4%) by weight, and the alcoholic content of such sample of light wine does not exceed five percent (5%) by weight.

(2) Every brewpub shall be required to submit to random testing by the commissioner to determine whether any beer being manufactured, sold, kept, stored or secreted by the license holder contains an alcohol content greater than eight percent (8%) by weight, and light spirit product being manufactured, sold, kept, stored or secreted by the license holder contains an alcoholic content greater than four percent (4%) by weight, and any light wine being manufactured, sold, kept, stored or secreted by the license holder contains an alcoholic content greater than five percent (5%) by weight. The commissioner shall establish and administer testing standards and procedures to be used in such random testing. The brewpub licensee shall be responsible for all costs incurred by the commissioner in conducting random testing under this section.

HISTORY: Laws, 1998, ch. 308, § 15; Laws, 2012, ch. 323, § 9, eff from and after July 1, 2012; Laws, 2020, ch. 314, § 14, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, in (1), inserted “light spirit product,” substituted “or a combination thereof” for “or both,” and inserted “and the alcohol content of such sample of light spirit product does not exceed four percent (4%) by weight” and “sample of”; and in (2), inserted “and light spirit product being manufactured, sold, kept, stored or secreted by the license holder contains an alcoholic content greater than four percent (4%) by weight.”

§ 67-3-29. Revocation or suspension of permit by commissioner.

(1) The commissioner, or a hearing officer or the board of review, as designated by the commissioner, after a show cause hearing, shall revoke or

suspend any permit granted by authority of this chapter to any person who shall violate any of the provisions of this chapter or the revenue laws of this state relating to engaging in transporting, storing, selling, distributing, possessing, receiving or manufacturing of wines or beers, or any person who shall hereafter be convicted of the unlawful sale of intoxicating liquor, or any person who shall allow or permit any form of illegal gambling or immorality on the premises described in such permit. The commissioner shall not revoke or suspend a permit of a retailer for the sale of light wine, light spirit product or beer to a person under the age of twenty-one (21) years until there has been a conviction of the permit holder or an employee of the permit holder for such violation.

(2) If any person exercising any privilege taxable under the provisions of Chapter 71 of Title 27, Mississippi Code of 1972, shall willfully neglect or refuse to comply with the provisions of such chapter, or any rules or regulations promulgated by the commissioner under authority of such chapter, or the provisions of this chapter, including maintaining the qualifications of an applicant under Section 67-3-19, during the permit period, the commissioner shall be authorized to revoke or suspend the permit theretofore issued to the person. Any person whose permit shall have been revoked by the commissioner shall be thereafter prohibited from exercising any privilege under the provisions of Chapter 71 of Title 27, Mississippi Code of 1972, for a period of two (2) years from the date of the revocation. The commissioner may, however, for good cause shown, grant a new permit upon such conditions as the commissioner may prescribe. Any person whose permit shall have been suspended by the commissioner shall be prohibited from exercising any privilege under the provisions of Chapter 71 of Title 27, Mississippi Code of 1972, during the period of the suspension. Failure of the person to comply with the terms of the suspension shall be cause for revocation of his permit, in addition to the other penalties provided by law.

(3) In addition to the reasons specified in this section and other provisions of this chapter, the commissioner shall be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or Section 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Codes, 1942, §§ 10213, 10257; Laws, 1934, chs. 127, 171; Laws, 1946, ch. 383; Laws, 1973, ch. 467, § 2; Laws, 1991, ch. 368, § 2; Laws, 1996, ch. 507, § 18; Laws, 2005, ch. 499, § 31, eff from and after July 1, 2005; Laws, 2020, ch. 314, § 15, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, in (1), inserted “light spirit product” in the last sentence.

§ 67-3-41. Judicial revocation or suspension of permit; sections are cumulative.

Sections 67-3-31 through 67-3-41 and Section 67-3-53 are declared to be cumulative, amendatory, and supplemental to any and all other acts and laws of this state pertaining to the governing of the sale and distribution of light wines, light spirit products and beers as contained in Sections 27-71-301 through 27-71-347, Mississippi Code of 1972, and Sections 67-3-17, 67-3-23, 67-3-27, 67-3-29(2), 67-3-55, and 67-3-57.

HISTORY: Codes, 1942, § 10223; Laws, 1934, ch. 171; Laws, 1944, ch. 133, §§ 2-4; Laws, 2020, ch. 314, § 16, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit products.”

§ 67-3-45. Loans and extension of credit to retailers prohibited; brewpub exemption.

No manufacturer, distributor or wholesale dealer to whom or to which this chapter applies shall:

(a) Make any loan, directly or indirectly, or furnish any fixtures of any kind, directly or indirectly, to any retail dealer in light wines, light spirit products and/or beer;

(b) Have any interest, direct or indirect, in the business of or in the furnishings or fixtures or in the premises used by any such retail dealer in connection with his or its business;

(c) Have any lien on any such property of any such retail dealer; or

(d) Sell light wines, light spirit products and/or beer to any such retail dealer on credit.

This section shall not apply to a brewpub licensed pursuant to Article 3, Chapter 71, Title 27, Mississippi Code of 1972.

HISTORY: Codes, 1942, § 10214; Laws, 1934, ch. 171; Laws, 1966, ch. 656, § 1; Laws, 1998, ch. 308, § 10, eff from and after July 1, 1998; Laws, 2020, ch. 314, § 17, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit products” in (a) and (d).

§ 67-3-46. Manufacturers of light wines, light spirit products or beer prohibited from acting as wholesalers or distributors.

(1) The provisions of subsection (2) of this section apply to the following entities:

(a) Any person engaged in the business of brewing or manufacturing beer or in the business of manufacturing or producing light wines or light spirit products;

(b) An officer, director, agent or employee of an entity described in paragraph (a) of this subsection;

(c) An affiliate of an entity described in paragraph (a) of this subsection, regardless of whether the affiliation is corporate or by management, direction or control.

(2) No entity named in subsection (1) of this section may have any interest in the license, business, assets or corporate stock of a wholesaler or distributor to whom this chapter applies, except a security interest granted to the entity of the type provided for the Uniform Commercial Code in products sold to a wholesaler or distributor until the full purchase price has been paid therefor.

HISTORY: Laws, 1980, ch. 342, § 1, eff from and after July 1, 1980; Laws, 2020, ch. 314, § 18, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit products” in (1)(a).

JUDICIAL DECISIONS

1. Mississippi Beer Industry Fair Dealing Act.

Circuit court erred in dismissing a wholesaler’s complaint for failure to state a claim because the wholesaler alleged that the Mississippi Beer Industry Fair Dealing Act rendered the match-and-redirect provision of the parties’ distribution

contract null and void, and a beer supplier’s demands premised on the void provision could have amounted to unjustified “interference” with the wholesaler’s transfer to an allegedly qualified transferee. *Rex Distrib. Co. v. Anheuser-Busch, LLC*, 271 So. 3d 445, 2019 Miss. LEXIS 205 (Miss. 2019).

§ 67-3-48. Retail sale of light wine, light spirit product or beer produced by small craft brewery.

(1) A small craft brewery may sell at retail light wine, light spirit product or beer produced at its brewery for consumption on the premises of the brewery and consumption off the premises of the brewery if the sales are made on the premises of the brewery and the light wine, light spirit product or beer products offered for sale are also made available for sale to wholesalers.

(2)(a) A small craft brewery shall not sell at retail more than ten percent (10%) of the light wine, light spirit product or beer produced annually at its brewery or more than one thousand five hundred (1,500) barrels of light wine, light spirit product or beer produced at the brewery annually, whichever is the lesser amount. For purposes of this subsection, contract-brewed beer shall not be included in the amount of beer produced annually at the brewery. The light wine, light spirit product or beer must be sold at a price approximating retail prices generally charged for identical beverages in the county where the brewery is located.

(b) A small craft brewery shall not make retail sales of more than five hundred seventy-six (576) ounces, in the aggregate, of light wine, light spirit product or beer to any one (1) individual for consumption off the premises of the brewery within a twenty-four-hour period.

(c) The limits on sales provided for in this subsection shall not apply to beer provided pursuant to Section 67-3-47.

(3) A small craft brewery shall take commercially reasonable steps to ensure that light wine, light spirit product or beer products sold for consumption off the premises of the brewery are being sold for personal use and not for resale and are not being sold to anyone holding a retail permit for the purpose of resale in their establishment.

(4) A small craft brewery shall not make retail sales of contract-brewed beer.

(5) A small craft brewery shall not mail or ship light wine, light spirit product or beer to a consumer.

HISTORY: Laws, 2017, ch. 345, § 1, effective from and after July 1, 2017; Laws, 2020, ch. 314, § 19, eff from and after passage (approved June 18, 2020).

Editor's Notes — A former § 67-3-48 [Laws, 1997, ch. 499, § 2, effective from and after July 1, 1997; Repealed by Laws of 2000, ch. 435, § 12, effective from and after July 1, 2000] required the State Tax Commission to provide suitable labels or markings of identification for the purpose of taxation of beer inspected and authorized by the commission to be sold, and prohibited the unauthorized use of such labels.

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted "light spirit product" everywhere it appears.

Cross References — Small craft breweries required to file monthly reports regarding the sale of light wine or beer authorized under this section, see § 27-71-307.

Bond required of manufacturer operation small craft brewery who is distributing light wine or beer for sale as authorized by this section, see § 27-71-311.

Penalty for violation of this section, see § 67-3-69.

§ 67-3-48.1. Operation of small craft brewery acquired by or acquiring manufacturer of light wine, light spirit product or beer not meeting definition of small craft brewery.

(1) In the event a small craft brewery is acquired by an entity that manufactures light wine, light spirit product or beer that does not fall within the definition of the term "small craft brewery," the entity that acquired the small craft brewery may continue to operate the brewery as a small craft brewery for as long as the acquired facility meets the definition of the term "small craft brewery"; however, the limit in Section 67-3-3 on the amount of barrels of light wine, light spirit product or beer that a small craft brewery may produce shall not apply to light wine, light spirit product or beer that is not produced by the acquired small craft brewery.

(2) In the event a small craft brewery acquires an entity that manufactures light wine, light spirit product or beer that does not fall within the definition of the term "small craft brewery," the small craft brewery that acquired the entity may continue to operate as a small craft brewery for as long as the brewery meets the definition of the term "small craft brewery." The light wine, light spirit product or beer produced by the entity that is acquired by a small craft brewery shall not apply to the limit in Section 67-3-3 on the amount

of light wine, light spirit product or beer that the small craft brewery may produce.

(3) A small craft brewery described in subsections (1) and (2) of this section may continue to sell at retail brands the small craft brewery produces on its premises at all locations at which it was selling the brands at retail at the time of the acquisition; however, the small craft brewery may not sell at retail brands produced by the entity that acquired it or by the entity it acquires, as the case may be.

HISTORY: Laws, 2017, ch. 345, § 2, eff from and after July 1, 2017; Laws, 2020, ch. 314, § 20, eff from and after passage (approved June 18, 2020).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in subsection (1) by substituting “that acquired the small craft brewery” for “that acquired small craft brewery.” The Joint Committee ratified the correction at the August 15, 2017, meeting.

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-3-49. Manufacture, sale or storage of light wine with alcoholic content of more than 5%, light spirit product with alcoholic content of more than 4% or beer with alcoholic content of more than 8% prohibited; exception.

(1) Except as otherwise provided in this section, it shall be unlawful for any brewer or manufacturer or distributor or wholesale dealer of or in light wines, light spirit products and/or beer to manufacture or knowingly bring upon his premises or keep thereon any wine of an alcoholic content of more than five percent (5%) by weight, any light spirit product of an alcoholic content of more than four percent (4%) by weight, any beer of an alcoholic content of more than eight percent (8%) by weight, or any distilled spirits of any alcoholic content whatsoever. Any person that shall add to or mix with any beer, light spirit product or light wine any alcoholic or other liquid, or any alcohol cube or cubes, or any other ingredient or ingredients that will increase or tend to increase the alcoholic content of such liquor, or any person that shall knowingly offer for sale any liquor so treated, shall be guilty of a misdemeanor and punished as hereinafter provided in this chapter. The commissioner shall take any action he considers necessary to ensure that light wine, light spirit product and/or beer manufactured at a brewpub complies with the provisions of this section.

(2) A brewer or manufacturer of light wine, light spirit product or beer may manufacture and keep upon his premises beer of an alcoholic content of more than eight percent (8%) by weight if the beer is manufactured for legal sale in another state.

HISTORY: Codes, 1942, § 10219; Laws, 1934, ch. 171; Laws, 1998, ch. 306, § 9;

Laws, 1998, ch. 308, § 11; Laws, 2012, ch. 323, § 10; Laws, 2012, ch. 501, § 6, eff from and after July 1, 2012; Laws, 2020, ch. 314, § 21, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit products” and “any light spirit product of an alcoholic content of more than four percent (4%) by weight, any” in (1), and inserted “light spirit product” everywhere else it appears.

§ 67-3-51. Sales from other than original containers prohibited; exception.

(1) It shall be unlawful for any person to sell, or offer to sell, or keep for sale any bottled beer, bottled light spirit product or bottled light wine except the same be in the original bottle or in the original package containing bottles, each of which bottles shall bear the original label and the full name of the brewer or manufacturer of the contents of such bottle, both on the label and on the cap or cork of such bottle in the case of beer, and on the label only in the case of light wine and light spirit product.

(2) It shall be unlawful for any person to sell, or offer for sale, or keep for sale any beer, light spirit product or light wine in the original package or packages unless each such original package (whether barrel or other container, and whether containing liquor in bottles or otherwise) shall have plainly stamped on the container or label for each such container the full name of the manufacturer of the liquor therein contained.

(3) It shall be unlawful for any person to sell on draught any beer, light spirit product or light wine except the same be drawn from the original barrel or other container, which such container shall have plainly stamped on each end thereof the full name of the manufacturer of such liquor.

(4) This section shall not apply to beer offered and provided on the premises of a brewery for the purpose of tasting or sampling as authorized in Section 67-3-47.

HISTORY: Codes, 1942, § 10220; Laws, 1934, ch. 171; Laws, 1987, ch. 355, § 3; Laws, 2012, ch. 569, § 2, eff from and after July 1, 2012; Laws, 2020, ch. 314, § 22, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “bottled light spirit product” in (1), and inserted “light spirit product” everywhere else it appears; and made related changes.

§ 67-3-52. Sale of beer, light spirit product or light wine obtained outside state.

It shall be unlawful for any person holding a permit authorizing the sale of beer, light spirit product or light wine at retail to obtain such beer, light spirit product or light wine from any source outside of the State of Mississippi. Any person who violates the provisions of this section, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00)

or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court. Any person convicted of violating this section, or any rules or regulations promulgated by the commissioner with regard to the unlawful acts described in this section, shall forfeit his permit. Any person whose permit has been forfeited pursuant to this section shall not be eligible for a permit issued by the commissioner for a period of five (5) years after the date of such forfeiture. In addition, no permit shall be issued for the same location, for which an offender has forfeited a permit pursuant to this section, to a spouse, offspring or sibling of the offender when to do so would circumvent the purposes of this section. The commissioner may assess a retailer who violates this section the amount of excise taxes due on the unlawfully imported beer, light spirit product or light wine, together with a penalty in the amount of four (4) times the state excise taxes due or One Hundred Dollars (\$100.00) per case, whichever is greater.

HISTORY: Laws, 1997, ch. 499, § 1; Laws, 1998, ch. 466, § 1; Laws, 2000, ch. 435, § 9, eff from and after July 1, 2000; Laws, 2020, ch. 314, § 23, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-3-53. Unlawful acts.

In addition to any act declared to be unlawful by this chapter, or by Sections 27-71-301 through 27-71-347, and Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be unlawful for the holder of a permit authorizing the sale of beer, light spirit product or light wine at retail or a small craft brewery selling light wine, light spirit product or beer at retail pursuant to Section 67-3-48 or for the employee of the holder of such a permit or the employee of such a brewery:

(a) To sell or give to be consumed in or upon any licensed premises or in or upon the premises of a small craft brewery any beer, light spirit product or light wine between the hours of midnight and seven o'clock the following morning or during any time the licensed premises may be required to be closed by municipal ordinance or order of the board of supervisors; however, in areas where the sale of alcoholic beverages is legal under the provisions of the Local Option Alcoholic Beverage Control Law and the hours for selling those alcoholic beverages have been extended beyond midnight for on-premises permittees under Section 67-1-37, the hours for selling beer, light spirit products or light wines are likewise extended in areas where the sale of beer, light spirit products and light wines is legal in accordance with the provisions of this chapter.

(b) To sell, give or furnish any beer, light spirit product or light wine to any person visibly or noticeably intoxicated, or to any habitual drunkard, or to any person under the age of twenty-one (21) years.

(c) To permit in the premises any lewd, immoral or improper entertainment, conduct or practices.

(d) To permit loud, boisterous or disorderly conduct of any kind upon the premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community in which the business is located.

(e) To permit persons of ill repute, known criminals, prostitutes or minors to frequent the licensed premises or the premises of the small craft brewery, except minors accompanied by parents or guardians, or under proper supervision.

(f) To permit or suffer illegal gambling or the operation of illegal games of chance upon the licensed premises or the premises of the small craft brewery.

(g) To receive, possess or sell on the licensed premises or, except as otherwise authorized by this chapter, on the premises of the small craft brewery any beverage of any kind or character containing more than five percent (5%) of alcohol by weight except any beer containing not more than eight percent (8%) of alcohol by weight, unless the licensee also possesses an on-premises or manufacturer's permit under the Local Option Alcoholic Beverage Control Law.

(h) To accept as full or partial payment for any product any coupons that are redeemed directly or indirectly from a manufacturer, wholesaler or distributor of light wine, light spirit product or beer.

HISTORY: Codes, 1942, § 10223; Laws, 1934, ch. 171; Laws, 1944, ch. 133, §§ 2-4; Laws, 1974, ch. 568; Laws, 1985, ch. 431, § 1; Laws, 1991, ch. 368, § 3; Laws, 1995, ch. 398, § 1; Laws, 1998, ch. 306, § 10; Laws, 2008, ch. 442, § 19; Laws, 2012, ch. 323, § 11; Laws, 2012, ch. 369, § 1; Laws, 2017, ch. 345, § 5, eff from and after July 1, 2017; Laws, 2020, ch. 314, § 24, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2017 amendment, in the first paragraph, inserted “or a small craft brewery...Section 67-3-48” and added “or the employee of such a brewery”; inserted “or in or upon the premises of a small craft brewery” in (a); inserted “or the premises of the small craft brewery” in (e) and (f); and in (g), inserted “or, except as otherwise authorized...small craft brewery” and “or manufacturer’s.”

The 2020 amendment, effective June 18, 2020, inserted “light spirit product” and “light spirit products” everywhere they appear.

§ 67-3-54. Exemption for person over age 18 but less than 21; parental consent; military personnel; employee of establishment licensed to sell light wine, light spirit product or beer.

(1) A person who is at least eighteen (18) years of age but under the age of twenty-one (21) years may possess and consume light wine, light spirit product or beer with the consent of his parent or legal guardian in the presence of his parent or legal guardian, and it shall not be unlawful for the parent, legal guardian or spouse of such person to furnish light wine, light spirit product or beer to such person who is at least eighteen (18) years of age.

(2) A person who is at least eighteen (18) years of age and who is serving in the armed services of the United States may lawfully possess and consume

light wine, light spirit product or beer on military property where the consumption of light wine, light spirit product or beer is allowed.

(3) A person who is under twenty-one (21) years of age shall not be deemed to unlawfully possess or furnish light wine, light spirit product or beer, if in the scope of his employment such person:

(a) Clears or buses tables that have glasses or other containers that contain or did contain light wine, light spirit product or beer;

(b) Waits on tables by taking orders for light wine, light spirit product or beer; or

(c) Stocks, bags or otherwise handles purchases of light wine, light spirit product or beer at a store.

HISTORY: Laws, 1985, ch. 431, § 4, eff from and after October 1, 1986; Laws, 2020, ch. 314, § 25, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-3-55. Possession or sale of light wine, light spirit product or beer not purchased from licensed or authorized manufacturer or wholesaler prohibited; brewpub exemption; exemptions for breweries providing beer on premises for tasting or sampling and small craft breweries selling light wine, light spirit product or beer on premises.

(1) It shall be unlawful for any retailer to possess for purpose of sale, to sell, or to offer to sell any light wine, light spirit product or beer which was not purchased from a wholesaler in this state who has a permit to sell such light wine, light spirit product or beer, except for beer, light spirit product or light wine that was brewed on the premises of the retailer who holds a permit as a brewpub pursuant to Article 3, Chapter 71, Title 27, Mississippi Code of 1972.

(2) It shall be unlawful for any wholesaler to possess for purpose of sale, to sell, or to offer to sell any light wine, light spirit product or beer which was not purchased from a manufacturer or importer of a foreign manufacturer authorized to sell such light wine, light spirit product or beer in this state.

(3) This section shall not apply to:

(a) Beer offered and provided on the premises of a brewery for the purpose of tasting or sampling as authorized in Section 67-3-47; or

(b) Light wine, light spirit product or beer sold on the premises of a small craft brewery as authorized in Section 67-3-48.

HISTORY: Codes, 1942, § 10246; Laws, 1934, ch. 127; Laws, 1973, ch. 467, § 1; Laws, 1978, ch. 381, § 1; Laws, 1980, ch. 342, § 2; Laws, 1998, ch. 308, § 12; Laws, 2012, ch. 569, § 3; Laws, 2017, ch. 345, § 6, eff from and after July 1, 2017; Laws, 2020, ch. 314, § 26, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2017 amendment added (3)(b).

The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-3-57. Possession or sale of light wine, light spirit product or beer before permit secured or during time of revocation or suspension prohibited; seizure of light wine, light spirit product or beer for violation of section.

(1) It shall be unlawful for any retailer to possess, sell or offer to sell, or to possess for purpose of sale, any light wine, light spirit product or beer at his place of business before securing a permit required by this chapter.

(2) It shall be unlawful for any person to possess, sell or offer to sell any light wine, light spirit product or beer at his place of business after revocation of his permit or to purchase, to sell or offer to sell any light wine, light spirit product or beer during the period of suspension of his permit.

(3) Any light wine, light spirit product or beer found in possession of, or sold by, a person in violation of this section shall be seized and disposed of in the manner provided for in Section 67-1-18.

HISTORY: Codes, 1942, § 10246; Laws, 1934, ch. 127; Laws, 1973, ch. 467, § 1; Laws, 1986, ch. 337, § 8; Laws, 1997, ch. 499, § 11; Laws, 2000, ch. 435, § 10; Laws, 2015, ch. 438, § 6, eff from and after passage (approved Apr. 13, 2015); Laws, 2020, ch. 314, § 27, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2015 amendment inserted subsection designations and added (3).

The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-3-59. Penalty for sales to persons not holding permits and sales of untaxed beer, light spirit product or light wine; notice; disposition of proceeds.

(1) Except as provided in this subsection, sales by wholesalers, distributors or manufacturers to persons who do not hold valid permits are unlawful; and any wholesaler, distributor or manufacturer making such sales, or who sells any beer, light spirit product or light wine on which the tax provided by law has not been paid, shall, in addition to any other fines, penalties and forfeitures, be subject to a penalty of Twenty-five Dollars (\$25.00) for each sale. If all other applicable taxes are paid, this penalty will not apply to the following: sales to employees of the wholesaler; sales to nonprofit charitable and civic organizations for special fund-raising events provided that the beer, light spirit product or light wine is not resold; sales to affiliated member associations.

(2) The commissioner may assess the penalty by giving notice by mail, demanding payment within thirty (30) days from date of delivery of the notice.

The proceeds of all penalties shall be deposited by the commissioner with the other monies collected by him and shall be disposed of as provided by law.

HISTORY: Codes, 1942, § 10217; Laws, 1934, ch. 171; Laws, 1978, ch. 386, § 1; Laws, 1991, ch. 368, § 4; Laws, 2005, ch. 499, § 32, eff from and after July 1, 2005; Laws, 2020, ch. 314, § 28, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-3-61. Common carriers shall furnish commissioner with duplicate bills of lading; penalty.

Every railroad company, express company, aeroplane company, motor transportation company, steamboat company, or other transportation company, or any person that shall transport into, from place to place within, or out of this state any light wines, light spirit products or beer, whether brewed or manufactured within this state or outside of this state, when requested by the commissioner, shall furnish him with a duplicate of the bill of lading covering the receipt for such liquor, showing the name of the brewer or manufacturer or distributor, and the name and address of the consignor and of the consignee, and the date when and place where received, and the destination and the quantity of such liquor received from the manufacturer or brewer or other consignor for shipment from any point within or without this state to any point within this state.

Any such company or person so transporting any such liquor that shall fail to comply with the requirements of this section, shall forfeit and pay to the State of Mississippi the sum of One Hundred Dollars (\$100.00) for each such failure, to be recovered in any court of competent jurisdiction. The commissioner is hereby authorized and empowered to sue in his own name, on the relation and for the use of the State of Mississippi, for such recovery.

HISTORY: Codes, 1942, § 10218; Laws, 1934, ch. 171; Laws, 2020, ch. 314, § 29, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” in the first paragraph.

§ 67-3-63. Records.

The commissioner shall cause a record to be kept of the names and places of business of all persons engaged in the brewing of beer, of all persons engaged in the manufacture of light wines or light spirit products, and of all persons engaged in the sale of light wines, light spirit products and/or beer, whether at retail or otherwise. He shall also cause a record to be kept of all beer, light spirit products and light wines (and of the amount thereof) brewed or manufactured by each brewery or winery, and of all such liquors (and of the amount thereof) sold by each brewery or winery, with the names and business addresses of the purchasers, and of all such liquors (and of the amount thereof) sold by every dealer other than a brewer or manufacturer, and in the case of sales by dealers other than retail dealers, of the names and business addresses of the purchasers.

The commissioner shall cause a record to be kept of all expenses incurred in the collection of such data.

HISTORY: Codes, 1942, § 10221; Laws, 1934, ch. 171; Laws, 2020, ch. 314, § 30, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit products” everywhere it appears, and made related changes.

§ 67-3-65. Powers of local governments.

Municipalities may enforce such proper rules and regulations for fixing zones and territories, prescribing hours of opening and of closing, and for such other measures as will promote public health, morals, and safety, as they may by ordinance provide. The board of supervisors of any county may make such rules and regulations as to territory outside of municipalities as are herein provided for municipalities.

Nothing in this chapter shall prohibit the governing body of any municipality from designating what territory surrounding churches and schools in said municipalities, and the board of supervisors of any county from designating what territory surrounding churches and schools outside of any municipality, in which light wines, light spirit products and beer shall not be sold or consumed.

HISTORY: Codes, 1942, §§ 10224, 10228; Laws, 1934, ch. 171; Laws, 2020, ch. 314, § 31, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit products” in the last paragraph.

§ 67-3-67. Transportation of light wines, light spirit products and beer not to be interfered with.

No county or any officer or agent thereof, nor any other officer, agent, or person, shall interfere with or impede the passage through such county of any light wine, light spirit product or beer moving in accordance with the provisions of this chapter and the provisions of Section 67-9-1 and which in transit to or from any county of this state wherein the traffic in light wines, light spirit products and beer is not prohibited, any county prohibition of such traffic to the contrary notwithstanding.

HISTORY: Codes, 1942, § 10225; Laws, 1934, ch. 171; Laws, 1996, ch. 417, § 12, eff from and after July 1, 1996; Laws, 2020, ch. 314, § 32, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” and “light spirit products.”

§ 67-3-69. Penalty.

(1) Except as to Sections 67-3-17, 67-3-23, 67-3-27, 67-3-55 and 67-3-57,

any violation of any provision of this chapter or of any rule or regulation of the commissioner, shall be a misdemeanor and, where the punishment therefor is not elsewhere prescribed in this section, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment for not more than six (6) months, or both, in the discretion of the court. If any person so convicted shall be the holder of any permit or license issued by the commissioner under authority of this chapter, the permit or license shall from and after the date of such conviction be void and the holder thereof shall not thereafter, for a period of one (1) year from the date of such conviction, be entitled to any permit or license for any purpose authorized by this chapter. Upon conviction of the holder of any permit or license, the appropriate law enforcement officer shall seize the permit or license and transmit it to the commissioner.

(2)(a) Any person who shall violate any provision of Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

(b) Any person who shall violate any provision of Section 67-3-57 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than one (1) year, or by both, in the discretion of the court. Any person convicted of violating any provision of the sections referred to in this subsection shall forfeit his permit, and shall not thereafter be permitted to engage in any business taxable under the provisions of Sections 27-71-301 through 27-71-347.

(3) If the holder of a permit, or the employee of the holder of a permit, shall be convicted of selling any beer, light spirit product or wine to anyone who is visibly intoxicated from the licensed premises or to any person under the age of twenty-one (21) years from the licensed premises in violation of Section 67-3-53(b), then, in addition to any other penalty provided for by law, the commissioner may impose the following penalties against the holder of a permit:

(a) For the first offense on the licensed premises, by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) and/or suspension of the permit for not more than three (3) months.

(b) For a second offense occurring on the licensed premises within twelve (12) months of the first offense, by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) and/or suspension of the permit for not more than six (6) months.

(c) For a third offense occurring on the licensed premises within twelve (12) months of the first, by a fine of not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) and/or suspension or revocation of the permit to sell beer, light spirit product or light wine.

(d) For a fourth or subsequent offense occurring on the licensed premises within twelve (12) months of the first, by a fine of not less than Two

Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) and/or suspension or revocation of the permit to sell beer, light spirit product or light wine.

(4) A person who sells any beer, light spirit product or wine to a person under the age of twenty-one (21) years shall not be guilty of a violation of Section 67-3-53(b) if the person under the age of twenty-one (21) years represents himself to be twenty-one (21) years of age or older by displaying an apparently valid Mississippi driver's license containing a physical description consistent with his appearance or by displaying some other apparently valid identification document containing a picture and physical description consistent with his appearance for the purpose of inducing the person to sell beer, light spirit product or wine to him.

(5) If a small craft brewery is convicted of violating the provisions of Section 67-3-48, then, in addition to any other provision provided for by law, the small craft brewery shall be punished as follows:

(a) For the first offense, the small craft brewery may be fined in an amount not to exceed Five Hundred Dollars (\$500.00).

(b) For a second offense occurring within twelve (12) months of the first offense, the small craft brewery may be fined an amount not to exceed One Thousand Dollars (\$1,000.00).

(c) For a third or subsequent offense occurring within twelve (12) months of the first offense, the small craft brewery may be fined an amount not to exceed Five Thousand Dollars (\$5,000.00) and the permit to operate as a manufacturer shall be suspended for thirty (30) days.

HISTORY: Codes, 1942, §§ 10226, 10264; Laws, 1934, chs. 127, 171; Laws, 1985, ch 431, § 2; Laws, 1997, ch. 499, § 12; Laws, 1998, ch. 308, § 13; Laws, 2000, ch. 435, § 11; Laws, 2005, ch. 462, § 5; Laws, 2017, ch. 345, § 7, eff from and after July 1, 2017; Laws, 2020, ch. 314, § 33, eff from and after passage (approved June 18, 2020); Laws, 2020, ch. 347, § 2, eff from and after July 1, 2020; Laws, 2020, ch. 347, § 2, eff from and after July 1, 2020.

Joint Legislative Committee Note — Section 33 of Chapter 314, Laws of 2020, effective from and after passage (approved June 18, 2020), amended this section. Section 2 of Chapter 347, Laws of 2020, effective from and after July 1, 2020 (approved June 23, 2020), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Amendment Notes — The 2017 amendment added (6).

The first 2020 amendment, effective June 18, 2020, inserted "light spirit product" in (3), (3)(c), (3)(d) and (4).

The second 2020 amendment (ch. 347) deleted former (5), which provided the punishment for conviction of violating the provisions of § 67-3-22(3) by the holder of a permit to operate a brewpub; and redesignated former (6) as (5).

§ 67-3-70. Purchase of light wine, light spirit product or beer by person under age of 21; penalties; expungement of conviction.

(1) Except as otherwise provided by Section 67-3-54, any person under the age of twenty-one (21) years who purchases or possesses any light wine, light spirit product or beer shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) and a sentence to not more than thirty (30) days community service.

(2) Any person under the age of twenty-one (21) years who falsely states he is twenty-one (21) years of age or older or presents any document that indicates he is twenty-one (21) years of age or older for the purpose of purchasing or possessing any light wine, light spirit product or beer shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) and a sentence to not more than thirty (30) days community service.

(3) Except as otherwise provided by Section 67-3-54, any person who knowingly purchases light wine, light spirit product or beer for, or gives light wine, light spirit product or beer to a person under the age of twenty-one (21) years, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) and a sentence to not more than thirty (30) days community service. The punishment provided under this subsection shall not be applicable to violations of Section 97-5-49.

(4) The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

(5) If a person under the age of twenty-one (21) years is convicted or enters a plea of guilty of violating subsection (1) or subsection (2) of this section, the trial judge, in lieu of the penalties otherwise provided under this section, shall suspend the minor's driver's license by taking and keeping it in the custody of the court for a period of time not to exceed ninety (90) days. The judge so ordering the suspension shall enter upon his docket "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF CONVICTION" and such action by the trial judge shall not constitute a conviction. During the period that the minor's driver's license is suspended, the trial judge shall suspend the imposition of any fines or penalties that may be imposed under this section and may place the minor on probation subject to such conditions as the judge deems appropriate. If the minor violates any of the conditions of probation, then the trial judge shall return the driver's license to the minor and impose the fines, penalties, or both, that he would have otherwise imposed, and such action shall constitute a conviction.

(6) Any person who has been charged with a violation of subsections (1) or (2) of this section may, not sooner than one (1) year after the dismissal and discharge or completion of any sentence and/or payment of any fine, apply to

the court for an order to expunge from all official records all recordation relating to his arrest, trial, finding or plea of guilty, and dismissal and discharge. If the court determines that such person was dismissed and the proceedings against him discharged or that such person had satisfactorily served his sentence and/or paid his fine, it shall enter such order.

HISTORY: Laws, 1985, ch. 431, § 3; Laws 2002, ch. 570, § 5; Laws, 2011, ch. 435, § 2; Laws, 2011, ch 472, § 2, eff from and after July 1, 2011; Laws, 2020, ch. 314, § 34, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-3-73. Immunity from liability of persons who lawfully furnished or sold intoxicating beverages to one causing damage.

(1) The Mississippi Legislature finds and declares that the consumption of intoxicating beverages, rather than the sale or serving or furnishing of such beverages, is the proximate cause of any injury, including death and property damage, inflicted by an intoxicated person upon himself or upon another person.

(2) Notwithstanding any other law to the contrary, no holder of an alcoholic beverage, beer, light spirit product or light wine permit, or any agent or employee of such holder, who lawfully sells or serves intoxicating beverages to a person who may lawfully purchase such intoxicating beverages, shall be liable to such person or to any other person or to the estate, or survivors of either, for any injury suffered off the licensed premises, including wrongful death and property damage, because of the intoxication of the person to whom the intoxicating beverages were sold or served.

(3) Notwithstanding any other law to the contrary, no social host who serves or furnishes any intoxicating beverage to a person who may lawfully consume such intoxicating beverage shall be liable to such person or to any other person or to the estate, or survivors of either, for any injury suffered off such social host’s premises, including wrongful death and property damage, because of the intoxication of the person to whom the intoxicating beverages were served or furnished. No social host who owns, leases or otherwise lawfully occupies a premises on which, in his absence and without his consent, intoxicating beverages are consumed by a person who may lawfully consume such intoxicating beverage shall be liable to such person or to any other person or to the estate, or survivors of either, for any injury suffered off the premises, including wrongful death and property damage, because of the intoxication of the person who consumed the intoxicating beverages.

(4) The limitation of liability provided by this section shall not apply to any person who causes or contributes to the consumption of alcoholic beverages by force or by falsely representing that a beverage contains no alcohol, or to any holder of an alcoholic beverage, beer, light spirit product or light wine

permit, or any agent or employee of such holder when it is shown that the person making a purchase of an alcoholic beverage was at the time of such purchase visibly intoxicated.

HISTORY: Laws, 1987, ch. 451, eff from and after April 3, 1987 (became law without Governor's signature on April 3, 1987); Laws, 2020, ch. 314, § 35, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” in (2) and (4).

JUDICIAL DECISIONS

2. No liability.

Nightclub owners were entitled to summary judgment when an accident victim alleged that the nightclub negligently served alcohol to a visibly intoxicated person because the victim failed to prove that the nightclub served a visibly intoxicated person, or that the person's intoxication

proximately caused the victim's injuries when the victim fell out the backseat of the truck which the person was driving, after leaving the nightclub, and was run over by the truck. *Rausch v. Barlow Woods, Inc.*, 204 So. 3d 796, 2016 Miss. App. LEXIS 767 (Miss. Ct. App. 2016).

§ 67-3-74. Enforcement of certain provisions by officers of the division.

(1) In addition to peace officers within their jurisdiction, all enforcement officers of the Alcoholic Beverage Control Division of the Department of Revenue are authorized to enforce the provisions made unlawful by this chapter and Section 97-5-49; however, the provisions prohibiting the sale of light wine, light spirit product or beer to persons under the age of twenty-one (21) years shall be enforced by the division as provided for in this section.

(2)(a) The Alcoholic Beverage Control Division shall investigate violations of the laws prohibiting the sale of light wine, light spirit product or beer to persons under the age of twenty-one (21) years upon receipt of a complaint or information from a person stating that they have knowledge of such violation.

(b) Upon receipt of such complaint or information, the Alcoholic Beverage Control Division shall notify the permit holder of the complaint by certified mail to the primary business office of such permit holder or by hand delivery of the complaint or information to the primary business office of such holder, except in cases where the complaint or information is received from any law enforcement officer.

(c) If an enforcement officer of the Alcoholic Beverage Control Division enters the business of the holder of the permit to investigate a complaint and discovers a violation, the agent shall notify the person that committed the violation and the holder of the permit:

(i) Within ten (10) days after such violation, Sundays and holidays excluded, if the business sells light wine, light spirit product or beer for on-premises consumption; and

(ii) Within seventy-two (72) hours after such violation, Sundays and holidays excluded, if the business does not sell light wine, light spirit product or beer for on-premises consumption.

HISTORY: Laws, 2002, ch. 570, § 1; Laws, 2003, ch. 392, § 4; Laws, 2005, ch. 462, § 4; Laws, 2007, ch. 462, § 6; Laws, 2011, ch. 379, § 4; Laws, 2016, ch. 470, § 3, eff from and after July 1, 2016; Laws, 2020, ch. 314, § 36, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2016 amendment substituted “unlawful by this chapter and Section 97-5-49; however, the provisions” for “unlawful by Sections 67-3-13, 67-3-15, 67-3-53, 67-3-57, and 67-3-70; provided, however, that the provisions” in (1). The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

CHAPTER 5.
NATIVE WINES

Sec.
67-5-11. Authorized sales by native wineries.

§ 67-5-11. Authorized sales by native wineries.

- (1) Within the State of Mississippi, every native winery is authorized to make sales to the department or to consumers at the location of the native winery or its immediate vicinity. Every native winery is authorized to make sales to any producer, manufacturer, wholesaler, retailer or consumer located outside of the State of Mississippi who are authorized by law to purchase the same.
- (2) With respect to native wines sold by the department to retailers under Section 67-1-41, the native winery may hold those wines for onsite pickup instead of shipping them to the department warehouse, at the option of the retailer and pursuant to any rules promulgated by the department.

HISTORY: Laws, 1976, ch. 467, § 6; Laws, 2006, ch. 352, § 1, eff from and after July 1, 2006; Laws, 2020, ch. 429, § 5, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in (1), substituted “department” for “commission”; and added (2).

CHAPTER 7.
BEER INDUSTRY FAIR DEALING ACT

Sec.
67-7-3. Purpose.
67-7-5. Definitions.
67-7-7. Prohibited acts; suppliers.
67-7-9. Prohibited acts; wholesalers.

Sec.

67-7-11. Amendment, modification, cancellation, termination, nonrenewal, or discontinuance of agreements by suppliers.

§ 67-7-3. Purpose.

The legislative purpose of this chapter is to provide a structure for the business relations between a wholesaler and a supplier of light wine, light spirit product or beer. Regulation in this area is considered necessary for the following reasons:

(a) To maintain stability and healthy competition in the light wine, light spirit product and beer industry in this state.

(b) To promote and maintain a sound, stable and viable system of distribution of light wine, light spirit product and beer to the public.

(c) To provide for the private settlement of disputes between wholesalers and suppliers of light wine, light spirit product or beer as an alternative to civil litigation which consumes the time and resources of the parties and the judicial system.

(d) To promote the public health, safety and welfare.

HISTORY: Laws, 1995, ch. 619, § 2, eff from and after passage (approved April 7, 1995); Laws, 2020, ch. 314, § 41, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

JUDICIAL DECISIONS

1. Dismissal.

Circuit court erred in dismissing a wholesaler’s complaint for failure to state a claim because the wholesaler alleged that the Mississippi Beer Industry Fair Dealing Act rendered the match-and-redirect provision of the parties’ distribution contract null and void, and a beer suppli-

er’s demands premised on the void provision could have amounted to unjustified “interference” with the wholesaler’s transfer to an allegedly qualified transferee. *Rex Distrib. Co. v. Anheuser-Busch, LLC*, 271 So. 3d 445, 2019 Miss. LEXIS 205 (Miss. 2019).

§ 67-7-5. Definitions.

As used in this chapter, the following words or phrases, or the plural thereof, whenever they appear in this chapter, unless the context clearly requires otherwise, shall have the meaning ascribed to them in this section.

(a) “Agreement” means any agreement between a wholesaler and a supplier, whether oral or written, whereby a wholesaler is granted the right to purchase and sell a brand or brands of light wine, light spirit product or beer sold by a supplier.

(b) “Ancillary business” means a business owned by the wholesaler, by a substantial stockholder of a wholesaler, or by a substantial partner of a wholesaler, the primary business of which is directly related to the trans-

porting, storing or marketing of the brand or brands of light wine, light spirit product or beer of a supplier with whom the wholesaler has an agreement; or a business owned by a wholesaler, a substantial stockholder of a wholesaler.

(c) "Commission" or "department" means the Department of Revenue of the State of Mississippi.

(d) "Commissioner" means the Commissioner of Revenue of the Department of Revenue.

(e) "Designated member" means the spouse, child, grandchild, parent, brother or sister of a deceased individual who owned an interest, including a controlling interest, in a wholesaler, or any person who inherits under the deceased individual's will, or under the laws of intestate succession of this state; or any person who or entity which has otherwise, through a valid testamentary device by the deceased individual, succeeded the deceased individual in the wholesaler's business, or has succeeded to the deceased individual's ownership interest in the wholesaler pursuant to a written contract or instrument which has been previously approved by the supplier; "designated member" includes the appointed and qualified personal representative and the testamentary trustee of a deceased individual owning an ownership interest in a wholesaler, and it includes the person appointed by a court as the guardian or conservator of the property of an incapacitated individual owning an ownership interest in a wholesaler.

(f) "Establish" means to adjust or regulate, to provide for and uphold.

(g) "Good faith" means honesty in fact and observance of reasonable commercial standards of fair dealing in the trade, as defined in and interpreted under the Uniform Commercial Code.

(h) "Reasonable qualifications" means the standard of the reasonable criteria established and consistently used by the respective supplier for similarly situated wholesalers that entered into, continued or renewed an agreement with the supplier during a period of twenty-four (24) months before the proposed transfer of the wholesaler's business, or for similarly situated wholesalers who have changed managers or designated managers, under the agreement, during a period of twenty-four (24) months before the proposed change in the manager or successor manager of the wholesaler's business.

(i) "Retaliatory action" means the refusal to continue an agreement, or a material reduction in the quality of service or quantity of products available to a wholesaler under an agreement, which refusal or reduction is not made in good faith.

(j) "Sales territory" means a primary area of sales responsibility for the brand or brands of light wine, light spirit product or beer sold by a supplier as designated by an agreement.

(k) "Substantial stockholder or substantial partner" means a stockholder or partner in the wholesaler who owns an interest of ten percent (10%) or more of the partnership or of the capital stock of a corporate wholesaler.

(l) “Successor” means a person who replaces a supplier with regard to the right to manufacture, sell, distribute or import a brand or brands of light wine, light spirit product or beer.

(m) “Supplier” means a manufacturer or importer of light wine, light spirit product or beer as regulated by the department under Sections 67-3-1 through 67-3-73.

(n) “Transfer of wholesaler’s business” means the voluntary sale, assignment or other transfer of ten percent (10%) or more of control of the business or all or substantially all of the assets of the wholesaler, or ten percent (10%) or more of control of the capital stocks of the wholesaler, including without limitation the sale or other transfer of capital stock or assets by merger, consolidation or dissolution, or of the capital stock of the parent corporation, or of the capital stock or beneficial ownership of any other entity owning or controlling the wholesaler.

(o) “Wholesaler” means a wholesaler of light wine, light spirit product or beer as regulated by the department under Sections 67-3-1 through 67-3-73.

(p) “Similarly situated wholesalers” means wholesalers of a supplier that are of a generally comparable size and operate in markets in Mississippi and adjoining states with similar demographic characteristics, including population size, density, distribution and vital statistics, as well as reasonably similar economic and geographic conditions.

(q) “Light wine, light spirit product and/or beer” has the meaning ascribed to such terms in Section 67-3-3.

HISTORY: Laws, 1995, ch. 619, § 3; Laws, 2009, ch. 342, § 2; Laws, 2009, ch. 492, § 137, eff from and after July 1, 2010; Laws, 2020, ch. 314, § 42, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears; in (q), substituted “Section 67-3-3” for “Section 67-3-5”; and made a minor stylistic change.

JUDICIAL DECISIONS

ANALYSIS

1. Dismissal.
2. Interfere.

1. Dismissal.

Circuit court erred in dismissing a wholesaler’s complaint for failure to state a claim because the wholesaler alleged that the Mississippi Beer Industry Fair Dealing Act rendered the match-and-redirect provision of the parties’ distribution contract null and void, and a beer supplier’s demands premised on the void provi-

sion could have amounted to unjustified “interference” with the wholesaler’s transfer to an allegedly qualified transferee. *Rex Distrib. Co. v. Anheuser-Busch, LLC*, 271 So. 3d 445, 2019 Miss. LEXIS 205 (Miss. 2019).

2. Interfere.

It is impossible for a supplier to tortiously interfere with the sale of its distribution rights, because the supplier is a party to the contract for the sale of its distribution rights. *Rex Distrib. Co. v. Anheuser-Busch, LLC*, 271 So. 3d 445, 2019 Miss. LEXIS 205 (Miss. 2019).

§ 67-7-7. Prohibited acts; suppliers.

(1) A supplier shall not do the following:

(a) Fail to provide each wholesaler of the supplier's brand or brands with a written agreement which contains in total the supplier's agreement with each wholesaler, and designates a specific sales territory. Any agreement which is in existence on April 7, 1995, shall be renewed consistent with this chapter, provided that this chapter may be incorporated by reference in the agreement. Nothing contained herein shall prevent a supplier from appointing, one (1) time for a period not to exceed ninety (90) days, a wholesaler to service temporarily a sales territory not designated to another wholesaler, until such time as a wholesaler is appointed by the supplier; and such wholesaler who is designated to service the sales territory during this period of temporary service shall not be in violation of the chapter, and, with respect to the temporary service territory, shall not have any of the rights provided under Sections 67-7-11 and 67-7-15.

(b) Fix, maintain or establish the price at which a wholesaler shall sell any light wine, light spirit product or beer.

(c) Enter into an additional agreement with any other wholesaler for, or to sell to any other wholesaler, the same brand or brands of light wine, light spirit product or beer in the same territory or any portion thereof, or to sell directly to any retailer in this state.

(d) Require any wholesaler to accept delivery of any light wine, light spirit product or beer or other commodity which has not been ordered by the wholesaler, except that a supplier may impose reasonable inventory requirements upon a wholesaler if the requirements are made in good faith and are generally applied to other similarly situated wholesalers who have an agreement with the supplier.

(e) Require any wholesaler to accept delivery of any light wine, light spirit product or beer or other commodity ordered by a wholesaler if the order was properly cancelled by the wholesaler in accordance with the supplier's procedure.

(f) Require any wholesaler to do any illegal act or to violate any law or regulation by threatening to amend, modify, cancel, terminate or refuse to renew any agreement existing between the supplier and wholesaler.

(g) Require a wholesaler to assent to any condition, stipulation or provision limiting the wholesaler's right to sell the brand or brands of light wine, light spirit product or beer of any other supplier unless the acquisition of the brand or brands of another supplier would materially impair or adversely affect the wholesaler's quality of service, sales or ability to compete effectively in representing the brand or brands of the supplier presently being sold by the wholesaler, except that in any action challenging a supplier's position, the supplier shall have the burden of providing that such acquisition of such other brand or brands would have such effect.

(h) Require a wholesaler to purchase one or more brands of light wine, light spirit product or beer products in order for the wholesaler to purchase

another brand or brands of light wine, light spirit product or beer for any reason, except that a wholesaler that has agreed to distribute a brand or brands before April 7, 1995, shall continue to distribute the brand or brands in conformance with this chapter.

(i) Require a wholesaler to submit audited profit and loss statements, balance sheets or financial records as a condition of renewal or continuation of an agreement, except that a supplier may require reasonable proof of a wholesaler's financial condition prior to extending credit terms to a wholesaler.

(j) Withhold delivery of light wine, light spirit product or beer ordered by wholesaler, or change a wholesaler's quota of a brand or brands if the withholding or change is not made in good faith.

(k) Require a wholesaler by any means directly to participate in or contribute to any local or national advertising fund controlled directly or indirectly by a supplier.

(l) Take any retaliatory action against a wholesaler that files a complaint in good faith regarding an alleged violation by the supplier of federal, state or local law or an administrative rule as a result of that complaint.

(m) Require or prohibit any change in the manager or successor manager of any wholesaler who has been approved by the supplier as of or after April 7, 1995, unless the supplier acts in good faith. Should a wholesaler change an approved manager or successor manager, a supplier shall not require or prohibit the change unless the person selected by the wholesaler fails to meet the nondiscriminatory, material and reasonable standards and qualifications for managers consistently applied to similarly situated wholesalers by the supplier, except that, in any action challenging a supplier's decision, the supplier shall have the burden of proving that such person fails to meet such standards and qualifications.

(n) Upon written notice of intent to transfer the wholesaler's business, interfere with, prevent or unreasonably delay (not to exceed thirty (30) days) the transfer of the wholesaler's business if the proposed transferee is a designated member.

(o) Upon written notice of intent to transfer the wholesaler's business other than to a designated member, withhold consent to or approval of, or unreasonably delay (not to exceed thirty (30) days after receipt of all material information reasonably requested) a response to a request by the wholesaler for any transfer of a wholesaler's business if the proposed transferee meets the nondiscriminatory material and reasonable qualifications and standards required by the supplier for similarly situated wholesalers.

(p) Restrict or inhibit the right of free association among wholesalers for any lawful purpose.

(q) Threaten to cancel or withhold credit, or to reduce the time period normally given the wholesaler to make payment on a delivery from the supplier as a means of compelling the wholesaler to meet certain standards of performance in any area of business not directly related to credit.

HISTORY: Laws, 1995, ch. 619, § 4, eff from and after passage (approved April 7, 1995); Laws, 2020, ch. 314, § 43, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-7-9. Prohibited acts; wholesalers.

A wholesaler shall not do any of the following:

(a) Fail to devote such efforts and resources to the sale and distribution of all the supplier’s brands of light wine, light spirit product or beer which the wholesaler has been granted the right to sell or distribute as are required in the wholesaler’s agreement with the supplier.

(b) Sell or deliver light wine, light spirit product or beer to a retail licensee located outside the sales territory designated to the wholesaler by the supplier of a particular brand or brands of light wine, light spirit product or beer, except that during periods of temporary service interruptions impacting a particular sales territory, a supplier may appoint another wholesaler to service the sales territory during the period of temporary service interruption. A wholesaler who is designated to service the impacted sales territory during the period of temporary service interruption shall not be in violation of this chapter and shall not have any of the rights provided under Sections 67-7-11 and 67-7-15 with respect to the temporary service territory.

(c) Transfer the wholesaler’s business without giving the supplier written notice of intent to transfer the wholesaler’s business and, where required by this chapter, receiving the supplier’s written approval for the proposed transfer, except that the consent or approval of the supplier shall not be required of any transfer of the wholesaler’s business to a designated member, or of any transfer of less than ten percent (10%) of the wholesaler’s business unless such transfer results in a change in control. The wholesaler shall give the supplier written notice of any change in ownership of the wholesaler.

HISTORY: Laws, 1995, ch. 619, § 5, eff from and after passage (approved April 7, 1995); Laws, 2020, ch. 314, § 44, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears.

§ 67-7-11. Amendment, modification, cancellation, termination, nonrenewal, or discontinuance of agreements by suppliers.

(1) Except as otherwise provided for in this chapter, a supplier shall not amend or modify an agreement; cause a wholesaler to resign from an agreement; or cancel, terminate, fail to renew or refuse to continue under an agreement, unless the supplier has complied with all of the following:

(a) Has satisfied the applicable notice requirements of this section.

(b) Has acted in good faith.

(c) Has good cause for the amendment, modification, cancellation, termination, nonrenewal, discontinuance or forced resignation.

(2) In any action challenging such amendment, modification, termination, cancellation, nonrenewal or discontinuance, the supplier shall have the burden of proving that it has acted in good faith, that the notice requirements under this section have been complied with, and that there was good cause for the amendment, modification, termination, cancellation, nonrenewal or discontinuance.

(3) Except as otherwise provided in this section, and in addition to the time limits set forth in subsection (4)(d) of this section, the supplier shall furnish written notice of the amendment, modification, termination, cancellation, nonrenewal or discontinuance of an agreement to the wholesaler not less than thirty (30) days before the effective date of the amendment, modification, termination, cancellation, nonrenewal or discontinuance. The notice shall be by certified mail and shall contain all of the following:

(a) A statement of intention to amend, modify, terminate, cancel, nonrenew or discontinue the agreement.

(b) A statement of the reason for the amendment, modification, termination, cancellation, nonrenewal or discontinuance.

(c) The date on which the amendment, modification, termination, cancellation, nonrenewal or discontinuance takes effect.

(4) Good cause shall exist for the purposes of a termination, cancellation, nonrenewal or discontinuance under subsection (1)(c) of this section when all of the following occur:

(a) There is a failure by the wholesaler to comply with a provision of the agreement which is both reasonable and of material significance to the business relationship between the wholesaler and the supplier.

(b) The supplier first acquired knowledge of the failure described in subparagraph (a) not more than twenty-four (24) months before the date notification was given pursuant to subsection (3) of this section.

(c) The wholesaler was given notice by the supplier of failure to comply with this agreement.

(d) The wholesaler has been afforded thirty (30) days in which to submit a plan of corrective action to comply with the agreement and an additional ninety (90) days to cure such noncompliance in accordance with the plan.

(5) Notwithstanding subsections (1) and (3) of this section, a supplier may terminate, cancel, fail to renew or discontinue an agreement immediately upon written notice given in the manner and containing the information required by subsection (3)(a), (b) and (c) of this section if any of the following occur:

(a) Insolvency of the wholesaler, the filing of any petition by or against the wholesaler under any bankruptcy or receivership law or the assignment for the benefit of creditors or dissolution or liquidation of the wholesaler which materially affects the wholesaler's ability to remain in business.

(b) Revocation or suspension of the wholesaler's state or federal license

by the appropriate regulatory agency whereby the wholesaler cannot service the wholesaler's sales territory for more than thirty-one (31) days.

(c) The wholesaler, or a partner or an individual who owns ten percent (10%) or more of the partnership or stock of a corporate wholesaler, has been convicted of a felony under the United States Code or the laws of any state which reasonably may adversely affect the good will or interest of the wholesaler or supplier. However, an existing stockholder or stockholders, or partner or partners, or a designated member or members, shall have, subject to the provisions of this chapter, the right to purchase the partnership interest or the stock of the offending partner or stockholder prior to the conviction of the offending partner or stockholder, and if the sale is completed prior to conviction the provisions of this subparagraph shall not apply.

(d) There was fraudulent conduct relating to a material matter on the part of the wholesaler in dealings with the supplier or its product, except that the supplier shall have the burden of proving fraudulent conduct relating to a material matter on the part of the wholesaler in any legal action challenging such termination.

(e) The wholesaler failed to confine to the designated sales territory its sales of a brand or brands to retailers except that this subsection does not apply if there is a dispute between two (2) or more wholesalers as to the boundaries of the assigned territory, and the boundaries cannot be determined by a reading of the description contained in the agreements between the supplier and the wholesalers.

(f) A wholesaler has failed to pay for light wine, light spirit product or beer ordered and delivered in accordance with established terms and the wholesaler fails to make full payment within five (5) business days after receipt of written notice of the delinquency and demand for immediate payment from the supplier.

(g) A wholesaler intentionally has made a transfer of wholesaler's business, other than a transfer to a designated member without prior written notice to the supplier.

(h) A wholesaler intentionally has made a transfer of wholesaler's business, other than a transfer to a designated member, although the wholesaler has prior to said transfer received from supplier a timely notice of disapproval of said transfer in accordance with this chapter.

(i) The wholesaler intentionally ceases to carry on business with respect to any of supplier's brand or brands previously serviced by wholesaler in its territory designated by the supplier, unless such cessation is due to force majeure or to labor dispute and the wholesaler has made good faith efforts to overcome such events. Provided, however, this shall affect only that brand or brands with respect to which the wholesaler ceased to carry on business.

(6) Notwithstanding subsections (1), (3) and (5) of this section, a supplier may terminate, cancel, not renew or discontinue an agreement upon not less than thirty (30) days prior written notice if the supplier discontinues production or discontinues distribution in this state of all the brands sold by the

supplier to the wholesaler, except that nothing in this section shall prohibit a supplier from: (a) upon not less than thirty (30) days notice, discontinuing the distribution of any particular brand or package of light wine, light spirit product or beer; or (b) conducting test marketing of a new brand of light wine, light spirit product or beer which is not currently being sold in this state, except that the supplier has notified the department in writing of its plans to test market, which notice shall describe the market area in which the test shall be conducted; the name or names of the wholesaler or wholesalers who will be selling the light wine, light spirit product or beer; the name or names of the brand of light wine, light spirit product or beer being tested; and the period of time, not to exceed eighteen (18) months, during which the testing will take place.

HISTORY: Laws, 1995, ch. 619, § 6, eff from and after passage (approved April 7, 1995); Laws, 2020, ch. 314, § 45, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears; and in (6), substituted “department” for “State Tax Commission” in (b).

§ 67-7-13. Transfer of business and assignment of rights of wholesalers.

JUDICIAL DECISIONS

1. Dismissal.

Circuit court erred in dismissing a wholesaler’s complaint for failure to state a claim because the wholesaler alleged that the Mississippi Beer Industry Fair Dealing Act rendered the match-and-redirect provision of the parties’ distribution contract null and void, and a beer suppli-

er’s demands premised on the void provision could have amounted to unjustified “interference” with the wholesaler’s transfer to an allegedly qualified transferee. *Rex Distrib. Co. v. Anheuser-Busch, LLC*, 271 So. 3d 445, 2019 Miss. LEXIS 205 (Miss. 2019).

§ 67-7-15. Duty of supplier to compensate wholesaler for conduct resulting in diminished value of business; determination of compensation by arbitration.

JUDICIAL DECISIONS

1. Dismissal.

Circuit court erred in dismissing a wholesaler’s complaint for failure to state a claim because the wholesaler alleged that the Mississippi Beer Industry Fair Dealing Act rendered the match-and-redirect provision of the parties’ distribution contract null and void, and a beer suppli-

er’s demands premised on the void provision could have amounted to unjustified “interference” with the wholesaler’s transfer to an allegedly qualified transferee. *Rex Distrib. Co. v. Anheuser-Busch, LLC*, 271 So. 3d 445, 2019 Miss. LEXIS 205 (Miss. 2019).

§ 67-7-17. **Waiver of rights by wholesalers generally; good faith settlement of disputes.**

JUDICIAL DECISIONS

1. **Dismissal.**

Circuit court erred in dismissing a wholesaler’s complaint for failure to state a claim because the wholesaler alleged that the Mississippi Beer Industry Fair Dealing Act rendered the match-and-redirect provision of the parties’ distribution contract null and void, and a beer suppli-

er’s demands premised on the void provision could have amounted to unjustified “interference” with the wholesaler’s transfer to an allegedly qualified transferee. *Rex Distrib. Co. v. Anheuser-Busch, LLC*, 271 So. 3d 445, 2019 Miss. LEXIS 205 (Miss. 2019).

§ 67-7-21. **Civil damage actions for violations of chapter; damages and costs recoverable; actions for declaratory and injunctive relief; venue.**

JUDICIAL DECISIONS

1. **Private right of action.**

State statutes regulating the relationship between suppliers and wholesalers of beer did not provide a private right of action for a retailer to allege that a distributor violated the regulations. Major

Mart v. Mitchell Distrib. Co., 46 F. Supp. 3d 639, 2014 U.S. Dist. LEXIS 122366 (S.D. Miss. 2014), dismissed, in part, — F. Supp. 3d —, 2015 U.S. Dist. LEXIS 186640 (S.D. Miss. 2015).

CHAPTER 9.

POSSESSION OR TRANSPORTATION OF ALCOHOLIC BEVERAGES, LIGHT WINE, LIGHT SPIRIT PRODUCT OR BEER

Sec.

67-9-1.

Transportation and possession of alcoholic beverages, light wine, light spirit product and beer by person holding an alcohol processing permit.

§ 67-9-1. **Transportation and possession of alcoholic beverages, light wine, light spirit product and beer by person holding an alcohol processing permit.**

Notwithstanding the provisions of any section of Title 27 or 67, Mississippi Code of 1972, it shall be lawful for any person holding an alcohol processing permit to transport and possess alcoholic beverages, light wine, light spirit product and beer, in any part of the state, for his or her use in cooking, processing or manufacturing products which contain alcoholic beverages as an integral ingredient, in amounts as limited by the Alcoholic Beverage Control Division of the Department of Revenue. The authority to transport and possess alcoholic beverages, light wine, light spirit product and beer under this section

exists regardless of whether (a) the county or municipality in which the transportation or possession takes place has voted for or against coming out from under the dry law, or (b) the transportation, storage, sale, distribution, receipt or manufacture of light wine, light spirit product and beer otherwise is prohibited.

The provisions of this section shall not be construed as amending, repealing or otherwise affecting any statute or any lawfully adopted ordinance, rule or regulation that prohibits or restricts the location at which, or the premises upon which, alcoholic beverages, light wine, light spirit product or beer may be sold or consumed.

HISTORY: Laws, 1996, ch. 417, § 1, eff from and after July 1, 1996; Laws, 2020, ch. 314, § 46, eff from and after passage (approved June 18, 2020).

Amendment Notes — The 2020 amendment, effective June 18, 2020, inserted “light spirit product” everywhere it appears; and in the first paragraph, substituted “Department of Revenue” for “State Tax Commission.”

TITLE 69.

AGRICULTURE, HORTICULTURE, AND ANIMALS

Chapter 1.	Agriculture and Commerce Department; Council on Agriculture.	69-1-1
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Chapter 3.	Agricultural Seeds.	69-3-1
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Chapter 13.	Stock Laws, Estrays.	69-13-1
Chapter 15.	Board of Animal Health; Livestock and Animal Diseases.	69-15-1
Chapter 24.	Fertilizing Materials and Additives.	69-24-1
Chapter 25.	Plants, Plant and Bee Diseases.	69-25-1
Chapter 29.	Livestock Brands, Theft or Loss of Livestock and Protective Associations.	69-29-1
Chapter 34.	Milk Producers Transportation Cost Assistance Loan Program.	69-34-1
Chapter 37.	Mississippi Boll Weevil Management Act.	69-37-1
Chapter 45.	Mississippi Agricultural Promotions Program Act.	69-45-1
Chapter 47.	Organic Certification Program.	69-47-1
Chapter 53.	Agritourism	69-53-1

CHAPTER 1.

AGRICULTURE AND COMMERCE DEPARTMENT; COUNCIL ON AGRICULTURE

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Council of State Agencies on Agriculture.	69-1-61
Mississippi Marketing of Agricultural Products and Industry Program Act of 1988.	69-1-101
Interagency Farm to School Council.	69-1-351
Certificates of Free Sale for Agricultural Products Exported From Mississippi.	69-1-371

GENERAL PROVISIONS

Sec.	
69-1-1.	Department of Agriculture and Commerce created.
69-1-18.	Definitions; authority of commissioner to promulgate rules and regulations and to conduct sanitation inspections in retail food stores; licensing; penalties.
69-1-48.	Authorization to accept, budget, receive and expend funds for improvements to department property and for marketing and promotion programs; funding improvements to Mississippi Agriculture and Forestry Museum.
69-1-56.	Produce Safety Rule Program; cooperation with the FDA in developing and administering program; conditional repeal of section; penalty for violation of section.

§ 69-1-1. Department of Agriculture and Commerce created.

(1) A Department of Agriculture and Commerce is created and established under the management and control of a public officer to be known as the Commissioner of Agriculture and Commerce, who shall have competent knowledge of agriculture, mining, manufacturing, statistics and general industries, must be an experienced and practical agriculturist; must be a resident of the state for five (5) years immediately preceding the day of election; and shall be elected by the people at the time and in the manner that other state officers are elected.

(2) The residency requirements specified under this section shall apply to elections held from and after January 1, 2020.

HISTORY: Codes, 1906, § 1622; Hemingway's 1917, § 3403; 1930, § 3599; 1942, § 4415; Laws, 1958, ch. 148, § 1; Laws, 2019, ch. 433, § 4, eff from and after July 1, 2019.

Editor's Notes — Laws of 2019, ch. 469, § 4, provides:

"SECTION 4. (1) There is created the Mississippi Hemp Cultivation Task Force which shall be composed of thirteen (13) members as follows:

- "(a) The Commissioner of Agriculture and Commerce or a designee;
- "(b) The President of Mississippi State University or a designee;
- "(c) The President of Alcorn State University or a designee;
- "(d) A director of the University of Mississippi School of Pharmacy National Center for Natural Products Research or a designee;
- "(e) The President of the Delta Council or a designee;
- "(f) A representative of the Mississippi Secretary of State's office;
- "(g) A representative of the Mississippi Attorney General's office;
- "(h) The Director of Pharmacy, Mississippi State Department of Health or a designee;
- "(i) A member of the Mississippi House of Representatives designated by the Speaker of the House;
- "(j) A member of the Mississippi Senate designated by the Lieutenant Governor;
- "(k) The Commissioner of Public Safety or a designee;
- "(l) The President of the Mississippi Farm Bureau Federation or a designee; and
- "(m) A designee of the Governor.

"(2) The Commissioner of Agriculture and Commerce, or the Commissioner's designee, shall chair the task force and shall call the first meeting, at which the task force shall elect a vice chair from its membership and shall adopt rules for transacting its business and keeping records. Members of the task force shall receive a per diem in the amount provided in Section 25-3-69 for each day engaged in the business of the task force. Members of the task force other than the legislative members shall receive reimbursement for travel expenses incurred while engaged in official business of the task force in accordance with Section 25-3-41 and the legislative members of the task force shall receive the expense allowance provided in Section 5-1-47.

"(3) The duties of the task force shall be to:

"(a) Make a comprehensive study of the potential for cultivation of hemp in this state. Reports shall be provided to the Legislature each year at least one (1) month before the convening of the regular session.

"(b) Examine and study approaches taken by other states in the monitoring and regulation of hemp cultivation.

"(c) Study the economic costs and benefits of hemp cultivation, market potential, and potential job creation.

"(4) The Mississippi Department of Agriculture and Commerce shall supply the

necessary staff and research assistance to the Task Force in its work.

“(5) This section shall stand repealed on July 1, 2020.”

Amendment Notes — The 2019 amendment inserted “must be a resident of the state for five (5) years immediately preceding the day of election” in (1); and added (2).

§ 69-1-18. Definitions; authority of commissioner to promulgate rules and regulations and to conduct sanitation inspections in retail food stores; licensing; penalties.

(1) The following words and phrases shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) “Potentially hazardous food” means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting: the growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or in raw shell eggs, the growth of salmonella enteritis. “Potentially hazardous food” includes an animal food (of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; and cut melons.

(b) “Micro market” means an unattended, self-checkout retail establishment that utilizes an automated payment system; is located in the interior of a building that is generally not accessible by the general public, with limited access and use to a defined population; and

(i) Offers for sale only commercially, tamper-evident packaged food and beverages properly labeled for individual retail sale and acquired from a source approved by the United States Food and Drug Administration or an appropriate state government agency; whole, uncut, raw fruits and vegetables; such other food and beverages as may be authorized in the Food Code, as adopted by the Department of Agriculture and Commerce; and any other food and beverages not otherwise subject to any required on-site inspection;

(ii) Has no on-site food preparation except for the heating or reheating of food in a microwave oven;

(iii) May utilize beverage dispensers which provide individual servings; and

(iv) May utilize refrigeration and freezer units.

(c) “Vending Machine” means a self-service machine that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses servings of food in bulk or in packages, or prepared by the machine, without the necessity of replenishing the machine between each vending operation.

(d) “Retail food establishment” means any establishment where food and food products are offered for sale to the ultimate consumer and intended for off-premise consumption. Such food or food products may be exposed to varying degrees of preparation and may often need further preparation or processing after it has been purchased. A retail food establishment does not include:

(i) An establishment that offers only prepackaged foods that are not potentially hazardous;

(ii) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(iii) A food processing plant;

(iv) A food establishment as defined by the Mississippi State Department of Health;

(v) A micro market; and

(vi) A vending machine.

(2) The commissioner and his agents shall have the authority:

(a) To promulgate rules and regulations establishing certain sanitation requirements for retail food establishments;

(b) To conduct sanitation inspections in retail food establishments; and

(c) To publish the names and addresses of violators and such information pertaining to violation(s) of this section as he deems appropriate.

(3) Each retail food establishment, before engaging in business, shall obtain a license from the commissioner. Owners of more than one (1) retail food establishment must obtain a license for each establishment. A license fee of Ten Dollars (\$10.00) must be paid to the department before a license will be issued. Application for such license shall be made on forms prescribed and furnished by the commissioner. Licenses issued under this subsection by the commissioner shall expire on June 30 each year and application for renewals thereof shall be made annually before the expiration date. Licenses shall not be transferable and application must be made for a new license if there is any change in location or ownership of the business.

(4) Any person who violates any provision of this law or the regulations adopted hereunder shall be guilty of a misdemeanor, and, upon conviction, shall be punished by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a term not to exceed six (6) months, or both.

(5) The commissioner may impose administrative penalties for violation of this section.

(6) Any person found by the commissioner to be in violation of this section may be assessed a penalty in an amount of not more than Five Hundred Dollars (\$500.00) and subsequent violations within a six-month period at a penalty of not more than One Thousand Dollars (\$1,000.00). In addition to, or in lieu of, such penalties the commissioner may suspend or revoke the permit issued to such person under terms of this section.

(7) When any violation of this section or the rules and regulations promulgated hereunder occurs, or is about to occur, that presents a clear and present danger to the public health, safety or welfare requiring immediate action, the commissioner or any of the department's field inspectors, or any other persons authorized by the commissioner, may issue an order to be effective immediately before notice and a hearing, that imposes any or all of the following penalties against the accused: (a) a stop sale order on any product in violation of this section; (b) an order to seize any product that is not in compliance with this section and require it to be denatured or destroyed under the supervision of the department's inspectors; or (c) an order that the retail

food establishment or any department within such establishment cease operations until it is in compliance with this section. The order shall be served upon the accused in accordance with Rule 4 of the Mississippi Rules of Civil Procedure or certified mail or it may be served by giving a copy of the order to the manager of the retail food establishment or, where no manager is present, an employee of the establishment. The accused shall then have twenty (20) days after service of the order upon him within which to request an informal administrative review before the Director of the Bureau of Regulatory Services in the department, or the director's designee, who shall act as reviewing officer. If the accused makes such a request within such time, the reviewing officer shall provide an informal administrative review to the accused within ten (10) days after such request is made. If the accused does not request an informal administrative review within twenty (20) days, then he shall have waived his right to such review. At the informal administrative review, there shall be no court reporter or record made of the proceedings. Each party may present its case in the form of documents, oral statements or any other method. The rules of evidence shall not apply. The reviewing officer's decisions shall be in writing, and it shall be delivered by certified mail. If the accused is aggrieved by the order of the hearing officer, he may appeal to the commissioner for a full evidentiary hearing. Such appeal shall be perfected by filing a notice of appeal with the commissioner within thirty (30) days after the order of the reviewing officer is served on the appealing party. The hearing before the commissioner or his designee shall be held within a reasonable time after the appeal has been perfected. Failure to perfect an appeal within the allotted time shall be deemed a waiver of such right.

HISTORY: Laws, 1997, ch. 348, § 1; Laws, 2000, ch. 514, § 1, eff from and after July 1, 2000; Laws, 2019, ch. 338, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment, in (1), added (b) and (c) and redesignated former (b) as (d), and in (d), added (v) and (vi) and made related changes.

Cross References — Civil penalty imposed under § 69-1-56 to be based upon administrative hearing per provisions of this section, see § 69-1-56.

§ 69-1-48. Authorization to accept, budget, receive and expend funds for improvements to department property and for marketing and promotion programs; funding improvements to Mississippi Agriculture and Forestry Museum.

(1) For purposes of this section, the following words shall have the meanings ascribed herein:

(a) "Department" means the Mississippi Department of Agriculture and Commerce.

(b) "Museum" means the Mississippi Agriculture and Forestry Museum.

(2) The department may accept, budget, receive and expend funds from

any source for improvements to department property and for marketing and promotion programs.

(3)(a) The department may allow a federal, state, or local governmental entity or a public, private, commercial or charitable entity to use, publish or advertise the entity's name on department property and in its publications. Furthermore, the commissioner may lease to any public, private, commercial or charitable entity for a term not to exceed twenty (20) years naming rights for museum buildings or property, including, but not limited to, new construction, improvements to existing buildings, grounds and/or objects located on museum property in return for consideration benefitting the department. The lessee shall pay the cost of erecting, maintaining and removing signage related to the property.

(b) Any funds received from the advertising or lease of naming rights shall be retained by the department and expended for improvements to its property, and marketing and promotion programs.

(c) The department may accept, budget, receive and expend these funds in accordance with rules and regulations of the Department of Finance and Administration in the manner consistent with the escalation of federal funds.

(4)(a) There is established in the State Treasury a special fund for the department for the monies collected under this section.

(b) Unexpended monies remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into the fund.

(5)(a) The department shall make reasonable attempts to notify the donor of any donated property or artifacts determined to be obsolete to allow such donor to retake possession of such item. If efforts to notify the donor prove unsuccessful, then the department may dispose of, auction or sell any property or artifact in the possession of the museum if the department determines that it is obsolete, no longer of value or use to the museum or unclaimed by the donor.

(b) All funds received under this section on behalf of the museum, shall be transferred into the nonbudgeted enterprise fund related to the museum. The enterprise funds shall be maintained in accordance with generally accepted accounting principles and regulations prescribed by the Department of Finance and Administration.

(c) The department may expend these funds for improvements to the museum and for marketing and promotion programs for the museum in a manner consistent with the museum's historical purpose.

HISTORY: Laws, 2011, ch. 505, § 1; Laws, 2017, ch. 364, § 1, eff from and after passage (approved Mar. 20, 2017).

Amendment Notes — The 2017 amendment, effective March 20, 2017, added the last two sentences of (3)(a); and substituted "the advertising or lease of naming rights shall" for "this advertising shall" in (3)(b).

§ 69-1-56. Produce Safety Rule Program; cooperation with the FDA in developing and administering program; conditional repeal of section; penalty for violation of section.

(1) The Department of Agriculture and Commerce is hereby designated as the state agency responsible for cooperating with the United States Food and Drug Administration (FDA) to enforce the provisions of 21 CFR Part 112. The department is further authorized to cooperate with the FDA in developing and administering the Produce Safety Rule Program of this state. The program requirements will be at least equal to those imposed under 21 CFR Part 112, and the program will be administered in a manner that will prevent or remediate the adulteration of raw agricultural commodities on farms. The department is authorized to enter into such other cooperative agreements as may be necessary to carry out the provisions of the Produce Safety Rule Program.

(2) The Department of Agriculture and Commerce may accept advisory assistance from the Food and Drug Administration in developing the program authorized by this section, technical and laboratory assistance and training, including necessary curriculum, instructional materials, and equipment, and financial assistance or other aid for administration of the program authorized by this section.

(3) The Department of Agriculture and Commerce shall represent the state in all communications and negotiations with the FDA regarding the implementation of this section and the provisions of the FDA Food Safety Modernization Act that fall within the department's authority granted by this section.

(4)(a) The commissioner is authorized to adopt rules and regulations as may be necessary to carry out the provisions of this section, including the following:

(i) Enter the premises of any covered farm for the purpose of inspecting the farm to determine if any provision of this section is being violated;

(ii) Enter the premises of any covered farm for the purpose of securing samples or specimens to determine if any provision of this section is being violated; and

(iii) Seize, condemn, or destroy any produce that is being grown, kept, exposed for sale, held in possession or under the control of any person on a covered farm if that produce is in violation of this section.

(b) No person shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the commissioner, an inspector of the department or any other person in the performance of his duties pursuant to this section.

(5) The provisions of this section shall remain in effect only as long as the federal funds required to implement the provisions of the FDA Food Safety Modernization Act referenced in this section are provided or upon the date of repeal of 21 CFR Part 112.

(6) Any person who violates a provision of this section or a regulation adopted pursuant to the provisions of this section may be subject to a civil penalty of not more than Five Thousand Dollars (\$5,000.00) per violation. Any civil penalty imposed by ruling of the commissioner under this section shall be based upon an administrative hearing held in accordance with the provisions of Section 69-1-18.

HISTORY: Laws, 2018, ch. 301, § 1, eff from and after passage (approved March 5, 2018).

Federal Aspects — FDA Food Safety Modernization Act, see 21 USCS § 2201 et seq.

COUNCIL OF STATE AGENCIES ON AGRICULTURE

Sec.
69-1-61. Repealed.

§ 69-1-61. Repealed.

Repealed by Laws of 2017, ch. 402, § 14, effective July 1, 2017.

§ 69-1-61. [Codes, 1942, § 8946-171; Laws, 1971, ch. 463, § 1; Laws, 1988, ch. 518, § 89, eff from and after July 1, 1988.]

Editor's Notes — Former § 69-1-61 established the Council of State Agencies on Agriculture.

MISSISSIPPI MARKETING OF AGRICULTURAL PRODUCTS AND INDUSTRY PROGRAM ACT OF 1988

Sec.
69-1-113. Repealed.
69-1-115. Authorization for payment of per diem compensation and actual expenses to council members; exceptions.
69-1-119. Provision of technical guidance and outreach to landowners, farmers, producers regarding management of nuisance wildlife on private agricultural and forestry lands.

§ 69-1-113. Repealed.

Repealed by Laws of 2017, ch. 402, § 15, effective July 1, 2017.

§ 69-1-113. [Laws, 1988, ch. 591, § 7, eff from and after passage (approved May 24, 1988).]

Editor's Notes — Former § 69-1-113 established the Agricultural Marketing Advisory Task Force.

§ 69-1-115. Authorization for payment of per diem compensation and actual expenses to council members; exceptions.

Members of the council shall serve without compensation, provided that

they shall be entitled to per diem compensation as is authorized by law for each day occupied with the discharge of official duties as members of the council and all actual, necessary expenses incurred in the discharge of their official duties, including mileage as authorized by law. However, no member shall be authorized to receive reimbursement for expenses, including mileage, or per diem compensation unless such authorization appears in the minutes of the council and is signed by the chairman or vice chairman. The members of the council shall not receive per diem or expenses while the Legislature is in session. All expenses incurred by and on behalf of the council shall be paid from a sum to be provided in equal portion from the contingency funds of the Senate and House of Representatives.

HISTORY: Laws, 1988, ch. 591, § 8; Laws, 2017, ch. 404, § 11, eff from and after July 1, 2017.

Amendment Notes — The 2017 amendment deleted “and task force” following “Members of the council” near the beginning; and deleted “or task force” following “members of the council” in the first sentence, “minutes of the council” in the second sentence, “members of the council” in the third sentence, and “on behalf of the council” in the last sentence.

§ 69-1-119. Provision of technical guidance and outreach to landowners, farmers, producers regarding management of nuisance wildlife on private agricultural and forestry lands.

The Commissioner of Agriculture and Commerce may provide technical guidance and outreach to landowners, farmers and producers regarding the management of nuisance wildlife on private agricultural and forestry lands. The commissioner is authorized to partner with state and federal agencies regarding nuisance wildlife management and to promote awareness across the state. The department is authorized to accept and expend any special funds received through grants or any other source as appropriated by the Legislature.

HISTORY: Laws, 2020, ch. 417, § 1, eff from and after July 1, 2020.

INTERAGENCY FARM TO SCHOOL COUNCIL

Sec.

69-1-351.	Repealed.
69-1-353.	Definitions.

§ 69-1-351. Repealed.

Repealed by its own terms effective July 1, 2015.

§ 69-1-351. [Laws, 2013, ch. 464, § 1, eff from and after passage (approved March 26, 2013.)]

Editor's Notes — Former § 69-1-351 created the Interagency Farm to School Council.

§ 69-1-353. Definitions.

For purposes of Sections 69-1-351 and 69-1-353, the following terms shall have the meanings herein ascribed unless the context clearly indicates otherwise:

(a) "Council" means the Interagency Farm to School Council created in Section 69-1-351.

(b) "Farm to school program" means any commercial relationship where a school purchases locally grown or locally raised agricultural products to serve in school meals and can include educational programs for students on local agriculture and nutrition;

(c) "Locally grown or locally raised agricultural products" means any food products grown on Mississippi farms or gardens, and includes, but is not limited to, fruits, vegetables, and nuts grown in Mississippi, meat, poultry, eggs, dairy, fish, seafood and other aquatic products produced in Mississippi, and products processed into value-added products that are grown or produced in Mississippi;

(d) "School" means any K-12 accredited public or private institution for learning and also includes public and private preschools.

HISTORY: Laws, 2013, ch. 464, § 2, eff from and after passage (approved March 26, 2013).

Editor's Notes — Section 69-1-351 referred to in the first two paragraphs, was repealed by its own terms effective July 1, 2015.

CERTIFICATES OF FREE SALE FOR AGRICULTURAL PRODUCTS EXPORTED FROM MISSISSIPPI

Sec.	
69-1-371.	Purpose.
69-1-373.	Definitions.
69-1-375.	Certificates of free trade for agricultural products grown or manufactured in, or distributed and sold from Mississippi; contents of request for certificate.

§ 69-1-371. Purpose.

A certificate of free sale is sometimes required for agricultural products from Mississippi to enter importing states and foreign countries. Persons exporting products from Mississippi are often asked by importing states and foreign countries to supply a certificate for products registered with or regulated by the Mississippi Department of Agriculture and Commerce. The purpose of Sections 69-1-371 through 69-1-375 is to authorize the Mississippi Department of Agriculture and Commerce to issue a certificate of free sale for agricultural products and those products registered with or regulated by the department for the purpose of exporting these products from Mississippi.

HISTORY: Laws, 2013, ch. 509, § 1, eff from and after passage (approved April 23, 2013).

§ 69-1-373. Definitions.

As used in Sections 69-1-371 through 69-1-375:

(a) "Agricultural products" means, but is not limited to, any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed for human or livestock consumption or products that are used for agricultural purposes such as fertilizers and soil and plant amendments.

(b) "Department" means the Mississippi Department of Agriculture and Commerce.

HISTORY: Laws, 2013, ch. 509, § 2, eff from and after passage (approved April 23, 2013).

§ 69-1-375. Certificates of free trade for agricultural products grown or manufactured in, or distributed and sold from Mississippi; contents of request for certificate.

(1) The department is authorized to issue certificates of free sale for products grown or manufactured in Mississippi or distributed and sold from Mississippi. The business must be in good standing with the Mississippi Secretary of State's office.

(2) All requests for certificates must be in writing and shall contain at least the following information:

(a) The name under which the business is conducted and/or licensed;

(b) The physical address where the business is conducted;

(c) The type of operation conducted by the requesting establishment;

(d) The product's full, common or usual name of the product, the name of the manufacturer and the size of the product. Each product size shall be submitted as a separate product. Products on the certificate will be listed exactly as submitted;

(e) The country or countries to where the product is being shipped; and

(f) The number of certificates requested.

(3)(a) Labeling information, promotional information, website information, master formulas, marketing clearance letters, distribution records, and advertising affixed to, accompanying, or relating to the products may be required to be submitted for each product upon request by the department.

If labeling is in a foreign language, applicant shall provide English translation. Labeling information shall be in final format. Label prototypes and drafts shall not be accepted.

(b) The certificate will list the product name, the manufacturer's name, and the product size, if applicable.

(4) The department assumes no legal liability by issuing these certificates, but merely serves to promote the export of agricultural products from the State of Mississippi.

HISTORY: Laws, 2013, ch. 509, § 3, eff from and after passage (approved April 23, 2013).

CHAPTER 2.

MISSISSIPPI FARM REFORM ACT

General Provisions. 69-2-1

GENERAL PROVISIONS

- Sec.
- 69-2-5. Information regarding programs and services; assistance provided by and donations to clearinghouse; report to Governor [Repealed effective July 1, 2023].
- 69-2-13. Emerging Crops Fund; loans for agribusinesses and small business concerns; loans for planning and development districts; program to assist minority business enterprises; loans for regional crafts projects; financing agribusiness programs; funds for rehabilitation, maintenance and advertising of Mississippi Farmers Central Market; program of loan guaranties on behalf of qualified nonprofit entities designated as community development financial institutions to encourage financing for loans in low-income communities; grants to certain agribusiness enterprises processing, drying, storing or shipping peanuts; program of loan guaranties on behalf of certain sweet potato growing and farming agribusinesses.
- 69-2-19. Issuance of general obligation bonds for Emerging Crops Fund; limit on amount of bonds issued.

§ 69-2-5. Information regarding programs and services; assistance provided by and donations to clearinghouse; report to Governor [Repealed effective July 1, 2023].

(1) The Mississippi Cooperative Extension Service shall act as a clearinghouse for the dissemination of information regarding programs and services which may be available to help those persons and businesses which have been adversely affected by the present emergency in the agricultural community. The Cooperative Extension Service shall develop a plan of assistance which shall identify all programs and services available within the state which can be of assistance to those affected by the present emergency. The Department of Agriculture and Commerce, Department of Finance and Administration, Department of Human Services, Department of Mental Health, State Department of Health, Board of Trustees of State Institutions of Higher Learning, Mississippi Community College Board, Research and Development Center, Mississippi Development Authority, Department of Employment Security, Office of the Governor, Board of Vocational and Technical Education, Mississippi Authority for Educational Television, and other agencies of the state which have programs and services that can be of assistance to those affected by the present emergency, shall provide information regarding their programs

and services to the Cooperative Extension Service for use in the clearinghouse. The types of programs and services shall include, but not be limited to, financial counseling, farm and small business management, employment services, labor market information, job retraining, vocational and technical training, food stamp programs, personal counseling, health services, and free or low cost legal services. The clearinghouse shall provide a single contact point to provide program information and referral services to individuals interested or needing services from state-funded assistance programs affecting agriculture, horticulture, aquaculture and other agribusinesses or related industries. Such assistance information shall identify all monies available under the Small Business Financing Act, the Business Investment Act, the Emerging Crops Fund legislation and any other sources which may be used singularly or combined, to provide a comprehensive financing package. The provisions of this section in establishing a single contact point for information and referral services shall not be construed to authorize the hiring of additional personnel.

(2) The Cooperative Extension Service may accept monetary or in-kind contributions, gifts and grants for the establishment or operation of the clearinghouse.

(3) The Cooperative Extension Service shall establish a method for the dissemination of information to those who can be benefited by the existing programs and services of the state.

(4) The Cooperative Extension Service shall file an annual report with the Governor, Lieutenant Governor and Speaker of the House of Representatives regarding the efforts which have been made in the clearinghouse operation. The report shall also recommend any additional measures, including legislation, which may be needed or desired in providing programs and benefits to those affected by the agricultural emergency.

HISTORY: Laws, 1987, ch. 482, § 3; Laws, 1988, ch. 503; Laws, 2004, ch. 572, § 56; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 56; reenacted and amended, Laws, 2010, ch. 559, § 56; reenacted without change, Laws, 2011, ch. 471, § 57; Laws, 2014, ch. 397, § 62, eff from and after July 1, 2014; reenacted without change, Laws, 2019, ch. 451, § 56, eff from and after passage (approved April 3, 2019).

Editor's Notes — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, as amended by Laws of 2012, ch. 515, § 58, as amended by Laws of 2019, ch. 451, § 58, and as amended by Laws of 2020, ch. 476, § 7, provides:

“SECTION 60. Sections 8 through 59 of this act shall stand repealed on July 1, 2023.”

Amendment Notes — The 2014 amendment substituted “Mississippi Community College Board” for “State Board for Community and Junior Colleges” in the third sentence of (1).

The 2019 amendment, effective April 3, 2019, reenacted the section without change.

Cross References — Mississippi Community College Board generally, see §§ 37-4-1 et seq.

§ 69-2-13. Emerging Crops Fund; loans for agribusinesses and small business concerns; loans for planning and development districts; program to assist minority business enterprises; loans for regional crafts projects; financing agribusiness programs; funds for rehabilitation, maintenance and advertising of Mississippi Farmers Central Market; program of loan guaranties on behalf of qualified nonprofit entities designated as community development financial institutions to encourage financing for loans in low-income communities; grants to certain agribusiness enterprises processing, drying, storing or shipping peanuts; program of loan guaranties on behalf of certain sweet potato growing and farming agribusinesses.

(1) There is hereby established in the State Treasury a fund to be known as the "Emerging Crops Fund," which shall be used to pay the interest on loans made to farmers for nonland capital costs of establishing production of emerging crops on land in Mississippi, and to make loans and grants which are authorized under this section to be made from the fund. The fund shall be administered by the Mississippi Development Authority. A board comprised of the directors of the authority, the Mississippi Cooperative Extension Service, the Mississippi Small Farm Development Center and the Mississippi Agricultural and Forestry Experiment Station, or their designees, shall develop definitions, guidelines and procedures for the implementation of this chapter. Funds for the Emerging Crops Fund shall be provided from the issuance of bonds or notes under Sections 69-2-19 through 69-2-37 and from repayment of interest loans made from the fund.

(2)(a) The Mississippi Development Authority shall develop a program which gives fair consideration to making loans for the processing and manufacturing of goods and services by agribusiness, greenhouse production horticulture, and small business concerns. It is the policy of the State of Mississippi that the Mississippi Development Authority shall give due recognition to and shall aid, counsel, assist and protect, insofar as is possible, the interests of agribusiness, greenhouse production horticulture, and small business concerns. To ensure that the purposes of this subsection are carried out, the Mississippi Development Authority shall loan not more than One Million Dollars (\$1,000,000.00) to finance any single agribusiness, greenhouse production horticulture, or small business concern. Loans made pursuant to this subsection shall be made in accordance with the criteria established in Section 57-71-11.

(b) The Mississippi Development Authority may, out of the total amount of bonds authorized to be issued under this chapter, make available funds to any planning and development district in accordance with the criteria established in Section 57-71-11. Planning and development districts which

receive monies pursuant to this provision shall use such monies to make loans to private companies for purposes consistent with this subsection.

(c) The Mississippi Development Authority is hereby authorized to engage legal services, financial advisors, appraisers and consultants if needed to review and close loans made hereunder and to establish and assess reasonable fees, including, but not limited to, liquidation expenses.

(d) The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(3)(a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for the following programs of loans to be made to agribusiness or greenhouse production horticulture enterprises for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusiness or greenhouse production horticulture enterprises by private institutions. Monies to make such loans by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(b) The Mississippi Development Authority may make loans to agribusiness or greenhouse production horticulture enterprises. The amount of any loan to any single enterprise under this paragraph (b) shall not exceed twenty percent (20%) of the total cost of the project for which financing is sought or Two Hundred Fifty Thousand Dollars (\$250,000.00), whichever is less. No interest shall be charged on such loans, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(c) The Mississippi Development Authority also may make loans under this subsection (3) to existing agribusiness or greenhouse production horticulture enterprises for the purpose of assisting such enterprises to make upgrades, renovations, repairs and other improvements to their equipment, facilities and operations, which shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) or thirty percent (30%) of the total cost of the project for which financing is sought, whichever is less. No interest shall be charged on loans made under this paragraph, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(d) The maximum aggregate amount of loans that may be made under this subsection (3) to any one (1) agribusiness shall be not more than Five Hundred Thousand Dollars (\$500,000.00).

(4)(a) Through June 30, 2010, the Mississippi Development Authority may loan or grant to qualified planning and development districts, and to small business investment corporations, bank-based community development corporations, the Recruitment and Training Program, Inc., the City of Jackson Business Development Loan Fund, the Lorman Southwest Mississippi Development Corporation, the West Jackson Community Development Corporation, the East Mississippi Development Corporation, and other entities meeting the criteria established by the Mississippi Development

Authority (all referred to hereinafter as “qualified entities”), funds for the purpose of establishing loan revolving funds to assist in providing financing for minority economic development. The monies loaned or granted by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Twenty-nine Million Dollars (\$29,000,000.00) in the aggregate. Planning and development districts or qualified entities which receive monies pursuant to this provision shall use such monies to make loans to minority business enterprises consistent with criteria established by the Mississippi Development Authority. Such criteria shall include, at a minimum, the following:

- (i) The business enterprise must be a private, for-profit enterprise.
- (ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.
- (iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.
- (iv) The borrower must demonstrate ability to repay the loan.
- (v) The borrower must not be in default of any previous loan from the state or federal government.
- (vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.
- (vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.
- (viii) The maximum amount that may be loaned to any one (1) borrower shall be Two Hundred Fifty Thousand Dollars (\$250,000.00).
- (ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term “minority business enterprise” means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this subsection, the term “socially and economically disadvantaged small business concern”

shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term “owned and controlled” means a business in which one or more minorities or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business. However, an individual whose personal net worth exceeds Five Hundred Thousand Dollars (\$500,000.00) shall not be considered to be an economically disadvantaged individual.

From and after July 1, 2010, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) Notwithstanding any other provision of this subsection to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its loan revolving fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its loan revolving fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (c) must be repaid to the district’s loan revolving fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its loan revolving fund to provide temporary funding under this paragraph (c) on more than two (2) occasions during a calendar year. A planning and development district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a loan revolving fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the loan revolving fund on the date the district first provides temporary funding during the calendar year.

(d) If the Mississippi Development Authority determines that a planning and development district or qualified entity has provided loans to minority businesses in a manner inconsistent with the provisions of this subsection, then the amount of such loans so provided shall be withheld by the Mississippi Development Authority from any additional grant funds to which the planning and development district or qualified entity becomes

entitled under this subsection. If the Mississippi Development Authority determines, after notifying such planning and development district or qualified entity twice in writing and providing such planning and development district or qualified entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this subsection, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(e) If the Mississippi Development Authority determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such planning and development district or qualified entity a reasonable opportunity to take corrective action, that a planning and development district or qualified entity administering a revolving loan fund under the provisions of this subsection is not actively engaged in lending as defined by the rules and regulations of the Mississippi Development Authority, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract with federal agencies, state agencies or political subdivisions of the state. The Mississippi Development Authority may secure letters of credit, as determined necessary by the authority, to guarantee bid, performance and payment bonds pursuant to this subsection. Monies for such program shall be drawn from the monies allocated under subsection (4) of this section to assist the financing of minority economic development and shall not exceed Three Million Dollars (\$3,000,000.00) in the aggregate. The Mississippi Development Authority may promulgate rules and regulations for the opera-

tion of the program established pursuant to this subsection. For the purpose of this subsection (5), the term “minority business enterprise” has the meaning assigned such term in subsection (4) of this section.

(6) The Mississippi Development Authority may loan or grant to public entities and to nonprofit corporations funds to defray the expense of financing (or to match any funds available from other public or private sources for the expense of financing) projects in this state which are devoted to the study, teaching and/or promotion of regional crafts and which are deemed by the authority to be significant tourist attractions. The monies loaned or granted shall be drawn from the Emerging Crops Fund and shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate.

(7) Through June 30, 2006, the Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce funds for the purpose of establishing loan revolving funds and other methods of financing for agribusiness programs administered under the Mississippi Agribusiness Council Act of 1993. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) in the aggregate. The Mississippi Department of Agriculture and Commerce shall establish control and auditing procedures for use of these funds. These funds will be used primarily for quick payment to farmers for vegetable and fruit crops processed and sold through vegetable processing plants associated with the Department of Agriculture and Commerce and the Mississippi State Extension Service.

(8) From and after July 1, 1996, the Mississippi Development Authority shall make available to the Mississippi Small Farm Development Center One Million Dollars (\$1,000,000.00) to be used by the center to assist small entrepreneurs as provided in Section 37-101-25, Mississippi Code of 1972. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(9) [Repealed]

(10) The Mississippi Development Authority shall make available to the Small Farm Development Center at Alcorn State University funds in an aggregate amount not to exceed Three Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash balance of the Emerging Crops Fund. The Small Farm Development Center at Alcorn State University shall use such funds to make loans to producers of sweet potatoes and cooperatives anywhere in the State of Mississippi owned by sweet potato producers to assist in the planting of sweet potatoes and the purchase of sweet potato production and harvesting equipment. A report of the loans made under this subsection shall be furnished by January 15 of each year to the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee.

(11) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce “Make Mine Mississippi” program an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund.

(12) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for the rehabilitation and maintenance of the Mississippi Farmers Central Market in Jackson, Mississippi.

(13) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for advertising purposes related to the Mississippi Farmers Central Market in Jackson, Mississippi.

(14)(a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loan guaranties to be made on behalf of any nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code and certified by the United States Department of the Treasury as a community development financial institution for the purpose of encouraging the extension of financing to such an entity which financing the entity will use to make funds available to other entities for the purpose of making loans available in low-income communities in Mississippi. Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Two Million Dollars (\$2,000,000.00) in the aggregate. The amount of a loan guaranty on behalf of such an entity under this subsection (14) shall not exceed Two Million Dollars (\$2,000,000.00). Assistance received by an entity under this subsection (14) shall not disqualify the entity from obtaining any other assistance under this chapter.

(b) An entity desiring assistance under this subsection (14) must submit an application to the Mississippi Development Authority. The application must include any information required by the Mississippi Development Authority.

(c) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (14), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (14).

(15)(a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of grants to agribusiness enterprises that process, dry, store or ship peanuts and if the enterprise has invested prior to April 17, 2009, a minimum of Six Million Dollars (\$6,000,000.00) in land, facilities and equipment in this state that are utilized to process, dry, store or ship peanuts. Monies to make such grants by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Dollars (\$1,000,000.00) in the aggregate. The amount of a grant under this subsection (15) shall not exceed One Million Dollars (\$1,000,000.00).

(b) An entity desiring assistance under this subsection (15) must submit an application to the Mississippi Development Authority. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the Mississippi Development Authority.

(c) As a condition of the receipt of a grant under this subsection (15), an entity must agree to remain in business in this state for not less than five (5) years and must meet other conditions established by the Mississippi Development Authority to ensure that the assistance results in an economic benefit to the state. The Mississippi Development Authority shall require that binding commitments be entered into requiring that:

(i) The minimum requirements provided for in this subsection (15) and the conditions established by the Mississippi Development Authority are met; and

(ii) If such commitments and conditions are not met, all or a portion of the funds provided pursuant to this subsection (15) shall be repaid.

(d) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (15), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (15).

(16)(a) The Mississippi Development Authority, in addition to the other programs described in this section, shall provide for a program of loan guaranties to be made on behalf of certain agribusinesses engaged in sweet potato growing and farming for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusinesses by lenders. The amount of a loan guaranty made on behalf of such an agribusiness shall be ninety percent (90%) of the amount of assistance made available by a lender for the purposes authorized under this subsection (16). Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Seventeen Million Dollars (\$17,000,000.00) in the aggregate.

(b) In order to be eligible for assistance under this subsection (16) an agribusiness must:

(i) Have been actively engaged in sweet potato growing and farming in this state before January 1, 2010;

(ii) Have incurred a disaster-related loss for sweet potato growing and farming purposes for calendar year 2009, as determined by a lender;

(iii) Agree to obtain and maintain federal Noninsured Agricultural Program (NAP) insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

(iv) Satisfy underwriting criteria established by a lender related to loans under this subsection (16).

(c)(i) An entity desiring assistance under this subsection must submit an application for assistance to a lender not later than August 1, 2010. The application must include:

1. Information verifying the length of time the applicant has been actively engaged in sweet potato growing and farming in this state;

2. Information regarding the number of acres used by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the Farm Services Authority (FSA) or the Mississippi Department of Agriculture and Commerce (MDAC), and the number of acres the applicant intends to use for such purposes during the 2010 calendar year;

3. The average cost per acre incurred by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the FSA or MDAC, and an estimate of the average cost per acre to be incurred by the applicant for such purposes during the calendar year for which application is made;

4. The amount of assistance requested;

5. A statement from the applicant agreeing that he will obtain and maintain NAP insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

6. Any other information required by the lender and/or the MDA.

(ii) The lender shall review the application for assistance and determine whether the applicant qualifies for assistance under this subsection (16). If the lender determines that the applicant qualifies for assistance, the lender shall loan funds to the applicant subject to the provisions of this subsection (16).

(d) Loans made under this subsection (16) shall be subject to the following conditions:

- (i) The maximum amount of a loan to a borrower shall not exceed One Thousand Seven Hundred Dollars (\$1,700.00) per acre and shall exclude any machinery and equipment costs.

- (ii) The proceeds of a loan may be used only for paying a borrower's sweet potato planting, production and harvesting costs, excluding machinery and equipment costs.

- (iii) The proceeds of a loan may not be used to repay, satisfy or finance existing debt.

- (iv) The time allowed for repayment of a loan shall not be more than five (5) years, and there shall be no penalty, fee or other charge imposed for the prepayment of a loan.

(e) The receipt of assistance by a person or other entity under any other program described in this section shall not disqualify the person or entity from obtaining a loan under the program established in this subsection (16) if the person or entity is otherwise eligible under this program. In addition, the receipt of a loan by a person or other entity under the program established under this subsection (16) shall not disqualify the person or entity from obtaining assistance under any other program described in this section.

(f) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (16), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (16).

HISTORY: Laws, 1987, ch. 482, § 7; Laws, 1988, ch. 580, § 19; Laws, 1989, ch. 524, § 29; Laws, 1990, ch. 570, § 18; Laws, 1991, ch. 584, § 6; Laws, 1992, ch. 548, § 11; Laws, 1993, ch. 548, § 8; Laws, 1993, ch. 619, § 9; Laws, 1994, ch. 560, § 4; Laws, 1995, ch. 548, § 10; Laws, 1996, ch. 553, § 5; Laws, 1997, ch. 582, § 1; Laws, 1998, ch. 536, § 9; Laws, 2000, ch. 584, § 4; Laws, 2000, ch. 620, § 1; Laws, 2001, ch. 540, § 1; Laws, 2002, ch. 536, § 1; Laws, 2003, ch. 504, § 1; Laws, 2004, ch. 360, § 1; Laws, 2004, 3rd Ex Sess, ch. 1, § 95; Laws, 2006, ch. 564, § 1; Laws, 2007, ch. 586, § 1; Laws, 2008, ch. 506, § 6; Laws, 2009, ch. 557, § 31; Laws, 2010, ch. 429, § 1; Laws, 2010, ch. 511, § 27; Laws, 2011, ch. 420, § 1; Laws, 2012, ch. 415, § 1; Laws, 2013, ch. 386, § 1; Laws, 2014, ch. 427, § 9, eff from and after July 1, 2014; Laws, 2020, ch. 337, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2013 amendment deleted the automatic reverter provision, which would have become effective July 1, 2014.

The 2014 amendment added (2)(d).

The 2020 amendment, in (3)(b) and (c), substituted “Two Hundred Fifty Thousand Dollars (\$250,000.00)” for “Two Hundred Thousand Dollars (\$200,000.00)”; and in (3)(d), substituted “Five Hundred Thousand Dollars (\$500,000.00).” for “Four Hundred Thousand Dollars (\$400,000.00).”

§ 69-2-19. Issuance of general obligation bonds for Emerging Crops Fund; limit on amount of bonds issued.

(1) The Mississippi Development Authority is authorized, at one time, or from time to time, to declare by resolution the necessity for issuance of negotiable general obligation bonds of the State of Mississippi to provide funds for the Emerging Crops Fund established in Section 69-2-13. Upon the adoption of a resolution by the board, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by Sections 69-2-19 through 69-2-39, the authority shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of same, the State Bond Commission, in its discretion, shall act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The amount of bonds issued under Sections 69-2-19 through 69-2-39 shall not exceed One Hundred Fourteen Million Dollars (\$114,000,000.00) in the aggregate; however:

(a) An additional amount of bonds may be issued under Sections 69-2-19 through 69-2-39 in an amount not to exceed Two Million Dollars (\$2,000,000.00), and the proceeds of any such additional bonds shall be used solely for the purposes described in Section 69-2-13(14); and

(b) An additional amount of bonds may be issued under Sections 69-2-19 through 69-2-39 in an amount not to exceed Seventeen Million

Dollars (\$17,000,000.00), and the proceeds of such additional bonds shall be used solely for the purposes described in Section 69-2-13(16).

(2) No bonds may be issued under Sections 69-2-19 through 69-2-39 after October 1, 2023.

HISTORY: Laws, 1987, ch. 482, § 10; Laws, 1990, ch. 570, § 19; Laws, 1991, ch. 538, § 1; Laws, 1992, ch. 507, § 1; Laws, 1993, ch. 548, § 9; Laws, 1993 Ex Sess, ch. 1, § 1; Laws, 1995, ch. 548, § 11; Laws, 1996, ch. 553, § 6; Laws, 1998, ch. 536, § 10; Laws, 2000, ch. 584, § 5; Laws, 2001, ch. 540, § 2; Laws, 2002, ch. 541, § 8; Laws, 2003, ch. 504, § 2; Laws, 2004, 3rd Ex Sess, ch. 1, § 96; Laws, 2007, ch. 586, § 2; Laws, 2008, ch. 506, § 7; Laws, 2009, ch. 557, § 32; Laws, 2010, ch. 429, § 2; Laws, 2011, ch. 431, § 6, eff from and after passage (approved Mar. 16, 2011); Laws, 2020, ch. 337, § 2, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in the introductory paragraph of (1), substituted “One Hundred Fourteen Million Dollars (\$114,000,000.00)” for “One Hundred Nine Million Dollars (\$109,000,000.00)”; and in (2), substituted “October 1, 2023” for “October 1, 2019.”

CHAPTER 3.

AGRICULTURAL SEEDS

Article 1. Sales. 69-3-1

ARTICLE 1.

SALES.

Sec.
 69-3-6. Seed inspection fees.
 69-3-17. Enforcing agency; state preemption of conflicting local ordinances or regulations.
 69-3-25. Penalties.
 69-3-29. Administrative procedures; applicability.

§ 69-3-6. Seed inspection fees.

(1) The department may establish seed inspection fees, prescribe and furnish forms, and require the filing of reports necessary for the payment of the inspection fees. The department may inspect the record of any seedsman during the normal hours of business operation as it deems necessary.

(2) All fees collected under this section shall be deposited into a special fund in the State Treasury. The department may expend the monies in the fund by an annual appropriation approved by the Legislature for the support of the Seed Division of the Bureau of Plant Industry.

(3) Every seedsman who sells or distributes seed for sale, whether in bulk or in containers, within or into Mississippi for planting purposes, shall be assessed a seed inspection fee as required by the department.

(4) Every seedsman must:

(a) Pay an inspection fee on the total number of pounds of seed sold or otherwise distributed for sale within or into the state. Payment of the seed inspection fees shall be the responsibility of the seedsman initiating the first sale of seed within or into the state;

(b) Maintain records, as required by the department, that accurately reflect the total pounds of seed subject to the fees that are handled, sold or offered, or distributed for sale;

(c) File quarterly reports on forms provided or approved by the department, covering the total pounds of all sales of seed subject to the fee and sold during the preceding quarter. The reports and fees due shall be filed with the department no later than thirty (30) days following the end of each calendar quarter.

(5) A seedsman who does not file the quarterly report by the due date shall pay a penalty fee as provided by the regulations of the department. The penalty fee shall be waived if the seedsman obtains prior written approval from the department for a late filing and complies with the late filing requirements.

(6) If a seedsman does not comply with all the requirements of this section, the commissioner may suspend the seedsman's permit until the seedsman is in compliance.

HISTORY: Laws, 2005, ch. 453, § 1; Laws, 2009, ch. 319, § 1; Laws, 2013, ch. 407, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment deleted “notarized” following “File quarterly” in (4)(c).

§ 69-3-17. Enforcing agency; state preemption of conflicting local ordinances or regulations.

(1) The duty of enforcing this article is vested in the commissioner. The commissioner may establish rules and regulations not inconsistent with this article, may employ such agents and persons, and may make use of other employees of the department as deemed necessary for enforcement of this article.

(2) This article and the regulations of the department are of statewide concern and occupy the whole field of regulation regarding the cultivation, harvesting, production, processing, registration, labeling, sale, storage, transportation, quarantine, distribution, notification of use, planting, or other use of seeds to the exclusion of all local regulations. Except as otherwise specifically provided in this article, no ordinance or regulation of any political subdivision may prohibit or regulate any matter relating to the registration, labeling, sale, storage, transportation, quarantine, distribution, notification of use, planting and use of seeds.

HISTORY: Codes, 1942, § 4397-09; Laws, 1964, ch. 204, § 9; Laws, 2016, ch. 315, § 1, eff from and after passage (approved Apr. 4, 2016).

Amendment Notes — The 2016 amendment rewrote the section, which read: “The

duty of enforcing this article and its provisions and requirements shall be vested in the commissioner of agriculture and commerce, who shall have authority to establish rules and regulations not inconsistent with the provisions of this article, and who is hereby authorized to employ such agents and persons as in his judgment shall be necessary therefor. The commissioner may make use of other employees of the state department of agriculture and commerce” and designated it (1); and added (2).

§ 69-3-25. Penalties.

Any person who violates any provision of this article or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

HISTORY: Codes, 1942, § 4397-12; Laws, 1964, ch. 204, § 12; Laws, 2000, ch. 623, § 7; Laws, 2005, ch. 453, § 3; Laws, 2013, ch. 407, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment deleted “knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts” following “Any person who”, substituted “article” for “act,” and substituted “more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment” for “less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00). Nothing in this act shall be construed as requiring the Commissioner to recommend prosecution for minor violations of this act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.”

§ 69-3-29. Administrative procedures; applicability.

(1) Whenever it has been alleged that any person or other entity has violated any of the provisions of this article, or any of the rules or regulations promulgated hereunder, the matter shall be conducted as an administrative proceeding under the terms and conditions of Sections 69-25-51 through 69-25-63, and where found culpable, such person or other entity shall be subject to the administrative and civil penalties provided therein.

(2) The procedures described herein shall not apply to seed arbitration claims which are described in Sections 69-3-20 through 69-3-22, as such claims shall be governed by the procedures set forth in those statutes.

HISTORY: Laws, 2000, ch. 623, § 8; Laws, 2013, ch. 407, § 3, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment added (1); deleted former (1) through (4) and redesignated former (5) as (2); and substituted “69-3-20 through 69-3-22” for “Section 69-3-19” and made a related minor stylistic change.

CHAPTER 5.
FAIRS; STOCK SHOWS; IMPROVEMENT OF
LIVESTOCK

Article 1.	Mississippi State Fairgrounds.	69-5-1
Article 3.	Stock Shows and Improvement of Livestock.	69-5-101

ARTICLE 1.
MISSISSIPPI STATE FAIRGROUNDS.

Sec.	
69-5-1.	Mississippi Fair Commission abolished and powers, duties, obligations transferred to Department of Agriculture and Commerce; Mississippi Fair Advisory Council created; composition [Repealed effective July 1, 2022].
69-5-3.	Powers and duties of Mississippi Fair Commission [Repealed effective July 1, 2022].
69-5-5.	Appointment of director to oversee operations of State Fairgrounds complex [Repealed effective July 1, 2022].
69-5-7.	Headquarters of Mississippi State Fair operations [Repealed effective July 1, 2022].
69-5-8.	“Kirk Fordice Equine Center” designated [Repealed effective July 1, 2022].
69-5-11.	Admission charges to State Fair [Repealed effective July 1, 2022].
69-5-13.	Requests for improvement of State Fairgrounds [Repealed effective July 1, 2022].
69-5-15.	Revenue bonds; issuance for improvement on State Fairgrounds [Repealed effective July 1, 2022].
69-5-27.	Department of Agriculture and Commerce authorized to borrow [Repealed effective July 1, 2022].
69-5-29.	Free passes prohibited [Repealed effective July 1, 2022].
69-5-31.	Department of Agriculture and Commerce authorized to hire certain law enforcement officers to provide security on state fairgrounds; powers, duties and responsibilities of officers [Repealed effective July 1, 2022].
69-5-33.	Repeal of Sections 69-5-1, 69-5-3, 69-5-5, 69-5-7, 69-5-8, 69-5-11, 69-5-13, 69-5-15, 69-5-27, 69-5-29 and 69-5-31.

§ 69-5-1. Mississippi Fair Commission abolished and powers, duties, obligations transferred to Department of Agriculture and Commerce; Mississippi Fair Advisory Council created; composition [Repealed effective July 1, 2022].

(1) The Mississippi Fair Commission is hereby abolished, and all of the powers, duties, property, contractual rights and obligations and unexpended funds of that commission shall be transferred to the Department of Agriculture and Commerce on July 1, 2020. Wherever the term “Mississippi Fair Commission” appears in any law or regulation, the same shall mean the Department of Agriculture and Commerce. The transfer of personnel shall be commensu-

rate with the number and classification of positions allocated to the commission.

(2) In order to promote agricultural and industrial development in Mississippi and to encourage the farmers to grow better livestock and agricultural products, there is hereby created an advisory council to be hereafter known as the "Mississippi Fair Advisory Council." The department shall receive input and guidance from the advisory council, which shall be composed of the following: The Commissioner of Agriculture and Commerce, chairman, the Director of the Mississippi State University Extension Service, President of the Mississippi Livestock Association, the Director of Mississippi Vocational Education, the Director of the Mississippi Development Authority, the Mayor of the City of Jackson, Mississippi, and an appointee of the Governor, all to serve without salary compensation.

HISTORY: Codes, 1942, § 4435-50; Laws, 1946, ch. 295, §§ 1-6; Laws, 1958, ch. 140, § 1; Laws, 2020, ch. 417, § 4, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment added (1); rewrote the former section, which read: "In order to promote agricultural and industrial development in Mississippi and to encourage the farmers to grow better livestock and agricultural products, there is hereby created a body politic and corporate to be hereafter known as the "Mississippi Fair Commission," which said body politic and corporate shall be under the management and control of said commission to be named by the Governor as follows: The Commissioner of Agriculture and Commerce, chairman, the director of the Mississippi Extension Service, president of the Mississippi Livestock Association, the director of Mississippi Vocational Education, and a representative of Mississippi Association of Fairs, a representative of the Agricultural and Industrial Board, and a representative of the City Commission of Jackson, Mississippi, all to serve four years without salary compensation. Should a vacancy occur by resignation or death, the Governor shall appoint a successor" and designated it (2).

§ 69-5-3. Powers and duties of Mississippi Fair Commission [Repealed effective July 1, 2022].

(1) The Department of Agriculture and Commerce shall set up rules and regulations consistent with the law governing the distribution of state monies for premiums or awards. It will be the duty of the department, at least twice each year, to approve premium lists or awards, and give out rules governing participants in state premium money in Mississippi. The department may invite the presidents of the various district livestock shows before the department when determining policies affecting district livestock shows.

(2) The Department of Agriculture and Commerce is hereby authorized to accept money or funds donated to the department, including funds to be awarded as prizes in livestock competition.

(3) The Department of Agriculture and Commerce shall have charge of the State Fairgrounds located in Jackson, Mississippi, including all buildings and improvements thereon, and shall have full power and authority in perfecting plans and causing to be held thereon the Mississippi State Fair and other such events that may be authorized by the department.

(4) The Department of Agriculture and Commerce is hereby authorized to employ an attorney as prescribed in Section 69-1-14.

(5) The Department of Agriculture and Commerce may take any action authorized in Section 1 of Laws 2000, Chapter 306.

(6) The Department of Agriculture and Commerce may allow a commercial, charitable or governmental entity to use, publish and advertise such entity's name in connection with any of the buildings, improvements, grounds or objects located on the State Fairgrounds in Jackson, except for the Kirk Fordice Equine Center, or in connection with any of the events conducted on the State Fairgrounds in return for a monetary consideration paid to the department. Furthermore, the department may lease to any public, private, commercial or charitable entity for a term not to exceed twenty (20) years naming rights to buildings, except for the Kirk Fordice Equine Center, or property, including, but not limited to, new construction, improvements to existing buildings, grounds and/or objects located on the State Fairgrounds in return for consideration benefitting the commission. The lessee shall pay the cost of erecting, maintaining and removing signage related to the property. Those funds received from an entity for allowing its name to be used, published or advertised in connection with the buildings, improvements, objects or events shall be retained by the department to be used for capital improvements to the fairgrounds or in its annual operating budget. The department shall not enter into any such agreement with any vendor whose products are illegal for participation in or use by persons eighteen (18) years of age and under.

(7) The Commissioner of Agriculture and Commerce is authorized to form and establish a private foundation or nonprofit corporation to receive and disburse the funds generated by the sale of naming rights described in subsection (6) of this section and for any other donations made to the department. The funds shall be disbursed in accordance with guidelines described in this section, and the foundation or nonprofit corporation shall be subject to the reporting requirements described in subsection (10) of this section. All funds shall remain with the foundation until disbursement and shall not be transferred to the State General Fund. No public funds shall be deposited into the account of the private foundation or nonprofit corporation established by the department for the benefit of the State Fairgrounds, nor shall the Legislature appropriate any State General Fund or Special Fund monies to the foundation or nonprofit corporation for such purposes. All monies received by the foundation shall be maintained separately from funds allocated to the department for operating and administrative costs associated with the State Fairgrounds. In addition to the reporting of information to be included in the annual legislative report of the department, the private foundation or nonprofit corporation shall be subject to annual financial audits by the State Auditor and by auditors of donors in the same manner as required for state agencies.

(8) The Department of Agriculture and Commerce shall have the authority to enter into a lease or right-of-way with a third party covering any land or buildings on the State Fairgrounds and any funds generated from such lease

or right-of-way shall remain in a special fund managed by the department for the benefit of the State Fairgrounds. All monies in the special fund may be used for capital improvements to the State Fairgrounds or in the department's annual operating budget for operating and administrative costs associated with the State Fairgrounds. Any unexpended funds remaining in the special fund shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited in the fund.

(9) The Department of Agriculture and Commerce is hereby authorized, with the advice of the Mississippi Fair Advisory Council, to adopt such rules and regulations as may be necessary or desirable to carry out, execute or implement the provisions of this article.

(10) The Department of Agriculture and Commerce shall report by January 1 of each year a detailed financial statement of all monies received and expended under subsection (6) and subsection (7) of this section to the Lieutenant Governor, the Speaker of the House of Representatives and the Chairman of the Senate Agriculture Committee and the Chairman of the House of Representatives Agriculture Committee.

HISTORY: Codes, 1942, § 4435-50; Laws, 1946, ch. 295, §§ 1-6; Laws, 1958, ch. 140, § 1; Laws, 1983, ch. 365, § 3; Laws, 2000, ch. 306, § 2; Laws, 2001, ch. 579, § 1; Laws, 2012, ch. 360, § 1; Laws, 2014, ch. 373, § 1; Laws, 2017, ch. 364, § 2, **eff from and after passage** (approved Mar. 20, 2017); Laws, 2020, ch. 417, § 5, **eff from and after July 1, 2020**.

Editor's Notes — Laws of 2018, ch. 405, § 1, effective March 19, 2018, provides: "SECTION 1. (1) The Mississippi Department of Finance and Administration, acting on behalf of the Mississippi Fair Commission, is authorized to acquire certain real properties and the improvements thereon in the method as determined in the best interest of the State of Mississippi, located in the corporate limits of the City of Jackson, Hinds County, Mississippi, for the use and benefit of the Mississippi Fair Commission, [For complete property description, see Section 1 of Chapter 405, Laws of 2018.]

"(2) The real properties and improvements described in subsection (1) of this section shall not be purchased for an amount greater than the current fair market value as determined by the average of two (2) appraisals by qualified appraisers, one (1) of whom shall be selected by the Department of Finance and Administration, and both of whom shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

"(3) The Department of Finance and Administration may correct any discrepancies in the legal descriptions of the properties provided in this section.

"(4) In acquiring ownership of the properties described in subsection (1) of this section, the state shall acquire all interest in the mineral rights in the properties, which shall be retained by the state in any subsequent agreement to sell or lease the properties once acquired under the provisions of this act."

For repeal of this section, see § 69-5-33.

Amendment Notes — The 2014 amendment rewrote (2), which read: "The Mississippi Fair Commission is hereby authorized to accept money or funds donated to or to be awarded as prizes under regulations promulgated by the commission"; rewrote (3), which read: "The Mississippi Fair Commission shall have charge of designated state lands and buildings, and have full power and authority in perfecting plans and causing to be held an agricultural and industrial exposition annually, and other events from time to time on those lands and located for the promotion of Mississippi agriculture and industry"; in (6), inserted "improvements or objects located" and "in connection with" in

the first sentence, and in the second sentence, inserted “improvements, objects,” “to be used” and “or in its annual operating budget” and deleted “except that not less than fifteen percent (15%) of such consideration shall be distributed annually to the Livestock Shows Fund that, by this subsection, is created in the State Treasury for premiums or awards in county, district and state livestock shows and the State High School Rodeo Finals. Those funds received from an entity for allowing its name to be used, published or advertised in connection with the Dixie National Livestock Show and Rodeo shall be retained by the Fair Commission for capital improvements except One Hundred Thousand Dollars (\$100,000.00) may be used annually for advertising, promoting, premiums, awards and entertainment acts for the Dixie National Livestock Show and Rodeo” following “capital improvements to the fairgrounds”; and added (7), (8), and (9), and redesignated former (7) as (10).

The 2017 amendment, effective March 20, 2017, in (6), inserted “grounds” in the first sentence, and added the second and third sentences.

The 2020 amendment substituted “Department of Agriculture and Commerce” for “Mississippi Fair Commission” everywhere it appears in (2) through (6) and (9) and (10); substituted “department” for “commission” everywhere it appears in (2) through (7); in (1), substituted “department” for “commission to meet at the call of the chairman” in the second sentence; in (7), substituted “Commissioner of Agriculture and Commerce” for “chairman of the commission”; in (8), substituted “Department of Agriculture and Commerce” for “commission” the first time it appears and “department for the benefit of the State Fairgrounds” the second time it appears, substituted “department’s” for “commission’s,” and added “for operating and administrative costs associated with the State Fairgrounds”; and in (9), inserted “with the advice of the Mississippi Fair Advisory Council.”

§ 69-5-5. Appointment of director to oversee operations of State Fairgrounds complex [Repealed effective July 1, 2022].

The Commissioner of Agriculture and Commerce shall appoint, subject to the advice and consent of the Senate, a director within the department who shall oversee all operations at the State Fairgrounds Complex and its adjoining properties and who shall give full and detailed reports of livestock shows and fairs participating in premium monies, for report to the Governor and Legislature. The compensation of the director shall be fixed by the Commissioner of Agriculture and Commerce, subject to approval by the State Personnel Board, and shall be exempt from the provisions of subsection (2) of Section 25-3-39.

HISTORY: Codes, 1942, § 4435-50; Laws, 1946, ch. 295, §§ 1-6; Laws, 1958, ch. 140, § 1; Laws, 2020, ch. 417, § 6, eff from and after July 1, 2020.

Editor’s Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment rewrote the section, which read: “The Mississippi Fair Commission may name an executive secretary and assign duties, who shall be required to keep full and complete minutes of the commission’s action and give full and detailed reports of livestock shows and fairs participating in premium monies, for report to the Governor and Legislature.”

§ 69-5-7. Headquarters of Mississippi State Fair operations [Repealed effective July 1, 2022].

Headquarters of the Mississippi State Fair operations shall be in connection with the office of the Department of Agriculture and Commerce.

HISTORY: Codes, 1942, § 4435-50; Laws, 1946, ch. 295, §§ 1-6; Laws, 1958, ch. 140, § 1; Laws, 2020, ch. 417, § 7, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment substituted "Mississippi State Fair operations" for "Mississippi Fair Commission"; deleted "state" following "office of the"; and made minor stylistic changes.

§ 69-5-8. "Kirk Fordice Equine Center" designated [Repealed effective July 1, 2022].

The building under the jurisdiction of the Department of Agriculture and Commerce, that is located in Jackson, Mississippi, and used primarily as an arena for rodeo and livestock expositions and related events, shall be named the Kirk Fordice Equine Center. The Department of Agriculture and Commerce shall prepare or have prepared a distinctive plaque, to be placed in a prominent place within the Kirk Fordice Equine Center, that states the background, accomplishments and service to the state of Governor Kirk Fordice.

HISTORY: Laws, 2005, ch. 301, § 1, eff from and after passage (approved Feb. 10, 2005); Laws, 2020, ch. 417, § 8, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment substituted "Department of Agriculture and Commerce" for "Mississippi Fair Commission" twice.

§ 69-5-11. Admission charges to State Fair [Repealed effective July 1, 2022].

(1) The Department of Agriculture and Commerce shall charge for admission to the State Fair. The proceeds thereof shall be used for the repayment of revenue bonds issued for the purpose of constructing, equipping and furnishing new buildings and making improvements on the State Fairgrounds.

(2) Funds collected in excess of those required to retire any outstanding bond indebtedness may be used as operating revenue for the Department of Agriculture and Commerce for operating and administrative costs associated with the State Fairgrounds, and such excess funds received by the department shall be deposited in a special fund account managed by the department for the benefit of the State Fairgrounds.

(3) The State Treasurer is hereby directed to invest such excess funds to the credit of the special account managed by the department for the benefit of the State Fairgrounds.

HISTORY: Codes, 1942, § 4435-50.3; Laws, 1956, ch. 143, §§ 1-8; Laws, 1958, ch. 142; Laws, 1962, ch. 155; Laws, 1966, ch. 224, § 1; Laws, 1968, ch. 236, § 1; Laws, 1971, ch. 501, § 1; Laws, 1985, ch. 339, eff from and after July 1, 1985; Laws, 2020, ch. 417, § 9, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment, in (1), substituted “Department of Agriculture and Commerce” for “Mississippi Fair Commission created by Section 69-5-1”; in (2), substituted “Department of Agriculture and Commerce for operating and administrative costs associated with the State Fairgrounds” for “Mississippi Fair Commission,” “department” for “Fair Commission,” and “a special fund” for “its special fund,” and added “managed by the department for the benefit of the State Fairgrounds”; and in (3), substituted “special account managed by the department for the benefit of the State Fairgrounds” for “Mississippi Fair Commission’s special account.”

§ 69-5-13. Requests for improvement of State Fairgrounds [Repealed effective July 1, 2022].

The Department of Agriculture and Commerce is hereby authorized and empowered, in its discretion, to declare by resolution the number and type buildings which need to be constructed and the type improvements that need to be made on the state fairgrounds, and file a certified copy of said resolution with the State Building Commission. If the State Building Commission believes such construction and improvements to be in the best public interest, and that receipts from admission to the State Fair reasonably shall be expected to produce sufficient revenues over a period not to exceed twenty (20) years to retire bonds issued to pay the cost of such improvements as well as the interest thereon, it may, in its discretion, approve the request of the Department of Agriculture and Commerce.

HISTORY: Codes, 1942, § 4435-50.3; Laws, 1956, ch. 143, §§ 1-8; Laws, 1958, ch. 142; Laws, 1962, ch. 155; Laws, 1966, ch. 224, § 1; Laws, 1968, ch. 236, § 1; Laws, 1971, ch. 501, § 1, eff from and after passage (approved April 8, 1971); Laws, 2020, ch. 417, § 10, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment substituted “Department of Agriculture and Commerce” for “Mississippi Fair Commission” twice.

§ 69-5-15. Revenue bonds; issuance for improvement on State Fairgrounds [Repealed effective July 1, 2022].

(1) The words “revenue bonds” shall be deemed to mean bonds payable solely from the net revenue received by the Department of Agriculture and Commerce.

The Department of Finance and Administration shall have power and is hereby authorized, at one time or from time to time by resolution, to authorize the issuance of negotiable revenue bonds to provide funds for the purpose of paying all or any part of the cost of construction and/or improvements requested by the Department of Agriculture and Commerce pursuant to Section 69-5-13, or the cost of any purchase of property or improvements

thereon pursuant to Section 17-17-49, but in no event shall the amount of such bonds outstanding at any one time exceed Four Million Dollars (\$4,000,000.00); and shall cause a certified copy of such resolution to be delivered to the State Bond Commission. No bonds shall be issued under this section after April 23, 2008. Upon the receipt of said authorizing resolution, the State Bond Commission, acting as the issuing agent, shall issue and sell the revenue bonds of the State of Mississippi when authorized at the time and in the amount indicated in said resolution, prescribe the form of the bonds, advertise for and accept bids therefor, issue and sell the bonds, and do any and all other things necessary and advisable in the issuance and sale of said bonds. The principal of and the interest on such revenue bonds shall be payable solely from a special fund to be provided for that purpose from the net revenue received by the Department of Agriculture and Commerce. Such bonds shall bear date or dates, be in such denomination or denominations, bear interest at such rate or rates, provided that the bonds of any issue shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-103, be payable at such place or places within or without the State of Mississippi, shall mature at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by the State Bond Commission. Such bonds shall mature in annual installments beginning not more than three (3) years from date thereof and extending not more than twenty (20) years from date thereof. Such bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be affixed thereto, and attested by the Secretary of the State Bond Commission. The interest coupons, if any, to be attached to such bonds or other certificates thereon may be executed by the facsimile signatures of said officers. Whenever any such bonds shall have been signed by the officials herein designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser or had been in office on the date such bonds may bear.

(2) No bonds shall be issued under the authority of this section prior to February 1, 1983; thereafter such bonds may be issued provided that the expansion and other improvements of the Mississippi Industrial Showcase and Trade Mart Building shall have priority in the use of the proceeds of such bonds and provided that the Department of Finance and Administration has approved plans to increase the size of such building by at least fifty percent (50%).

HISTORY: Codes, 1942, § 4435-50.3; Laws, 1956, ch. 143, §§ 1-8; Laws, 1958, ch.

142; Laws, 1962, ch. 155; Laws, 1966, ch. 224, § 1; Laws, 1968, ch. 236, § 1; Laws, 1971, ch. 501, § 1; Laws, 1981, ch. 514, § 2; Laws, 1982, ch. 396, § 1; Laws, 1983, ch. 480, § 1; Laws, 1985, ch. 477, § 15; Laws, 2008, ch. 504, § 4, eff from and after passage (approved Apr. 23, 2008); Laws, 2020, ch. 417, § 11, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment substituted “Department of Agriculture and Commerce” for “Mississippi Fair Commission” three times.

§ 69-5-27. Department of Agriculture and Commerce authorized to borrow [Repealed effective July 1, 2022].

The Department of Agriculture and Commerce shall have the power and authority, in its discretion, to borrow money from any bank or banks in an amount not in excess of Two Hundred Thousand Dollars (\$200,000.00), to be used for the repair, renovation or maintenance of buildings located at the Mississippi State Fairgrounds. The Department of Agriculture and Commerce may use any funds accruing to it to service and retire said indebtedness. Such loan shall not exceed a term of ten (10) years and shall bear interest at a rate not in excess of that provided for in Section 75-17-101.

Any loan secured under the provisions of this section shall be approved by the State Bond Commission.

HISTORY: Codes, 1942, § 4435-50.3; Laws, 1956, ch. 143, §§ 1-8; Laws, 1958, ch. 142; Laws, 1962, ch. 155; Laws, 1966, ch. 224, § 1; Laws, 1968, ch. 236, § 1; Laws, 1971, ch. 501, § 1; Laws, 1986, ch. 442, eff from and after July 1, 1986; Laws, 2020, ch. 417, § 12, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment substituted “Department of Agriculture and Commerce” for “Mississippi Fair Commission” the first time it appears and “Fair Commission” the second time it appears

§ 69-5-29. Free passes prohibited [Repealed effective July 1, 2022].

The Department of Agriculture and Commerce may by regulation establish policies for the issuance of free passes. These policies shall not prohibit officials of the fair or designated authority from entering said places for inspection purposes; shall not apply to press reporters designated to report news items; and shall not prohibit the commission from declaring specified days, such as Press Day, Legislator's Day, or any other special day.

HISTORY: Codes, 1942, § 4435-50.5; Laws, 1954, ch. 160, §§ 1, 2 [¶¶ 1-2]; Laws, 1985, ch. 331, eff from and after passage (approved March 15, 1985); Laws, 2020, ch. 417, § 13, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment substituted “Department of Agriculture and Commerce” for “Mississippi State Fair Commission.”

§ 69-5-31. Department of Agriculture and Commerce authorized to hire certain law enforcement officers to provide security on state fairgrounds; powers, duties and responsibilities of officers [Repealed effective July 1, 2022].

(1) The Department of Agriculture and Commerce is authorized to hire and designate area law enforcement officers on a contractual basis to provide security and to enforce all laws of the State of Mississippi on the Mississippi State Fairgrounds Complex. All officers must have attended and satisfactorily completed the training course required for law enforcement officers at the Law Enforcement Officer's Training Academy or an equivalent facility. All officers must be current with this certification. A complete record of all law enforcement training of each employee will be maintained in each employee's record of employment. Furthermore, the Department of Agriculture and Commerce may enter into a contract with any certified law enforcement officer to provide security to the Department of Agriculture and Commerce with jurisdiction to enforce all laws of the State of Mississippi on property known as the "Mississippi State Fairgrounds Complex" and any and all of its outlying buildings and property.

(2)(a) All officers while in performance of their duty on the premises or at any of the facilities at the Mississippi State Fairgrounds Complex under the direction or control of the Department of Agriculture and Commerce and public property immediately adjacent to such facilities shall:

(i) Be required to dress in uniforms prescribed by the respective law enforcement agency by which he or she is employed; and

(ii) Be authorized to carry weapons.

(b) Employees designated as officers shall be duly sworn and vested with authority to bear arms and make arrests, and shall exercise primarily the responsibilities of the prevention and detection of crime, the apprehension of criminals, and the enforcement of the ordinances and policies of the Department of Agriculture and Commerce, a political subdivision of the State of Mississippi. Employees designated as such officers shall be considered law enforcement officers within the meaning of Section 45-6-3.

HISTORY: Laws, 2013, ch. 357, § 1, eff from and after passage (approved March 18, 2013); Laws, 2020, ch. 417, § 14, eff from and after July 1, 2020.

Editor's Notes — For repeal of this section, see § 69-5-33.

Amendment Notes — The 2020 amendment, substituted "Department of Agriculture and Commerce" for "Mississippi Fair Commission" or "Mississippi State Fair Commission" everywhere it appears in (1), (2)(a) and (2)(b); in (2)(a), inserted "at the Mississippi State Fairgrounds complex"; and in (2)(a)(i), substituted "the respective law enforcement agency by which he or she is employed" for "the Mississippi State Fair Commission."

§ 69-5-33. Repeal of Sections 69-5-1, 69-5-3, 69-5-5, 69-5-7, 69-5-8, 69-5-11, 69-5-13, 69-5-15, 69-5-27, 69-5-29 and 69-5-31.

Sections 69-5-1, 69-5-3, 69-5-5, 69-5-7, 69-5-8, 69-5-11, 69-5-13, 69-5-15, 69-5-27, 69-5-29 and 69-5-31 shall stand repealed on July 1, 2022.

HISTORY: Laws, 2020, ch. 417, § 15, eff from and after July 1, 2020.

ARTICLE 3.

STOCK SHOWS AND IMPROVEMENT OF LIVESTOCK.

Sec.

69-5-107. Dairy shows.

69-5-114. Certain livestock shows to be held at no charge for use of facilities .

§ 69-5-107. Dairy shows.

Dairy shows shall be held, in addition to the livestock shows, each fall at Verona in Lee County, at Newton in Newton County, Tylertown in Walthall County, and at Purvis in Lamar County, and each summer at the Neshoba County Fair in Neshoba County, and any person in the state is entitled to participate in any of the dairy shows. The dairy shows shall be supervised and handled in the same manner as provided for livestock shows in Section 69-5-105, and each of the five (5) dairy shows herein provided for shall receive such part of the monies appropriated for the Mississippi Livestock Show as shall be specified in the act making such appropriation.

HISTORY: Codes, 1942, § 4905; Laws, 1938, ch. 183; Laws, 1940, ch. 217; Laws, 1946, ch. 251, §§ 1-6; Laws, 1948, chs. 195 (paragraph 4, *supra*) 218 (paragraph 2, *supra*); Laws, 1968, ch. 244, § 1; Laws, 1971, ch. 346, § 1; Laws, 1972, ch. 359, § 1; Laws, 1973, ch. 300, § 1 (d); Laws, 1979, ch. 335, § 1; Laws, 1995, ch. 370, § 2; Laws, 2002, ch. 476, § 1; Laws, 2013, ch. 349, § 1, eff from and after passage (approved March 18, 2013).

Amendment Notes — The 2013 amendment substituted “Purvis in Lamar County” for “Columbia in Marion County” preceding “and each summer at the Neshoba County Fair” in the first sentence.

§ 69-5-114. Certain livestock shows to be held at no charge for use of facilities

In any livestock facility constructed, renovated or expanded with funds from the grant program authorized under Section 18, Chapter 530, Laws of 1995, the members of the Future Farmers of America, the 4-H Club, the Junior Livestock Association, the Mississippi Cattlemen’s Association and the United States Pony Club, Inc., may hold up to three (3) animal or livestock shows or sales per year per facility at no charge for use of the facility or for utilities.

HISTORY: Laws, 1999, ch. 321, § 1; Laws, 2011, ch. 354, § 1; Laws, 2012, ch. 423, § 1; Laws, 2015, ch. 314, § 1, eff from and after July 1, 2015; Laws, 2018, ch. 316, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2015 amendment inserted “the Mississippi Cattlemen’s Association” and extended the repealer provision from “July 1, 2015” to “July 1, 2018” in the last sentence; and made minor stylistic changes.

The 2018 amendment deleted the former last sentence, which read: “This section shall stand repealed on July 1, 2018.”

CHAPTER 7.

MARKETS AND MARKETING; DOMESTIC FISH FARMING

Article 13. Catfish Marketing. 69-7-601

ARTICLE 13.

CATFISH MARKETING.

Sec.
69-7-607. Labeling of catfish and fish products; notice of country of origin; method of notification; record-keeping audit trail; commissioner authorized to inspect businesses for compliance; exceptions.

§ 69-7-607. Labeling of catfish and fish products; notice of country of origin; method of notification; record-keeping audit trail; commissioner authorized to inspect businesses for compliance; exceptions.

(1) Notice of country of origin.

(a) General requirements:

(i) All retailers of catfish and fish products, as defined in Section 69-7-605, shall inform consumers, at the final point of sale of the catfish or fish to the consumers, of the country of origin of the catfish or fish;

(ii) United States country of origin. A retailer of catfish or fish products may designate the catfish or fish as having a United States country of origin only if:

1. In case of “Farm-raised Catfish or Farm-raised Fish,” it is hatched, raised, harvested and processed in the United States;

2. In case of “River or Lake Catfish or River or Lake Fish,” it is:

a. Harvested in waters of the United States, a territory of the United States or a state, including the waters thereof; and

b. Processed in the United States, a territory of the United States or a state, including the waters thereof;

(iii) Farm-raised and River or Lake Catfish, Farm-raised and River or Lake Fish. The notice of country of origin for “Farm-raised Catfish,” or “Farm-raised Fish,” and “River or Lake Catfish” or “River or Lake Fish”

shall distinguish between "Farm-raised Catfish" and "River or Lake Catfish" or "Farm-raised Fish" and "River or Lake Fish."

(b) Method of notification.

(i) Retailers.

1. The information required by paragraph (a) of subsection (1) of this section may be provided to consumers by means of a label, stamp, mark, placard or other clear and visible sign on the catfish or fish or on the package, display, holding unit or bin containing the catfish or fish at the final point of sale to consumers.

2. If the catfish or fish is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

(ii) Food service establishments. The information required by paragraph (a) of subsection (1) of this section shall be provided to the consumer on the menu of the food service establishment. For foreign or imported catfish or fish, the information shall be adjacent to the item on the menu and printed in the same font style and size as the item. If the food service establishment offers for sale only catfish or fish having a United States country of origin, then the food service establishment may generally disclose this in a prominent location in the food service establishment in lieu of disclosure on the menu. The signage disclosing the sale of catfish or fish having a United States country of origin, that is to be placed in a prominent location in the food service establishment, shall be approved by the Mississippi Department of Agriculture and Commerce, which shall be held harmless in a cause of action for a retail or food service establishment's failure to disclose or fraudulent disclosure. Any liability arising from failure to disclose country of origin shall remain with the wholesaler and the retail or food service establishment.

(c) The commissioner may require that any person that prepares, stores, handles or distributes catfish or fish for retail sale maintain a verifiable record-keeping audit trail that permits the commissioner to verify compliance with this law and any regulations promulgated hereunder.

(d) Any distributor or wholesaler engaged in the business of supplying catfish or fish to a retailer or food service establishment shall provide information to the retailer or food service establishment indicating the country of origin of the catfish or fish. The information shall include certification of origin through a state or federal agency that regulates the processing of catfish or fish or through a federal agency that verifies that catfish or fish and/or other products produced in countries other than the United States meets similar sanitation requirements.

(2) Any advertising as to any catfish or fish product shall state the information required in paragraph (a) of subsection (1) of this section.

(3) The term "catfish" shall not be used as a common name or in the label name of fish product except as provided in this section.

(4) The commissioner shall have authority to enter the premises of any wholesaler, processor, distributor, retailer or any other person selling catfish or fish products in order to determine compliance with this article.

(5) This section shall not apply to catfish or fish products exported out of the United States.

HISTORY: Laws, 1975, ch. 308, § 4, eff 180 days from and after passage (approved February 14, 1975); Laws, 2002, ch. 506, § 2; Laws, 2004, ch. 377, § 2; Laws, 2008, ch. 449, § 3; reenacted without change, Laws, 2010, ch. 304, § 5; Laws, 2013, ch. 371, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment inserted all references to “and fish,” “or fish,” “Farm-raised Fish,” “River or Lake Fish” and “Farm-raised and River or Lake Fish” throughout the section; inserted “as defined in Section 69-7-605” in (1)(a)(i), and deleted “as indicated by a stamp or seal” following “shall be approved” in the next-to-last sentence of (1)(b)(ii).

CHAPTER 13.

STOCK LAWS, ESTRAYS

Article 3. Livestock at Large on Federal or State Highways. 69-13-101

ARTICLE 1.

GENERAL STOCK LAW.

§ 69-13-19. Owner liable for damages.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
3. Damages reasonable.

1. In general.

Statute provides a guideline for the trial court to follow when calculating damages, and the damages can be assessed for as little as \$8.00, but the statute does not limit the court's ability to impose heftier sums per trespassing event; it is within the trial court's discretion to assess damages in order to make the injured party whole. *Maslon v. Brown*, 148 So. 3d 27, 2014 Miss. App. LEXIS 541 (Miss. Ct. App. 2014).

3. Damages reasonable.

Damage to the owner's property was temporary in nature and could be corrected through repairs, and the argument that the damages were not established with reasonable certainty was without merit; there was testimony and evidence in the form of police reports that established damages to the owner's property, and the damages awarded for the cattle trespass were not unreasonable and outrageous. *Maslon v. Brown*, 148 So. 3d 27, 2014 Miss. App. LEXIS 541 (Miss. Ct. App. 2014).

ARTICLE 3.

LIVESTOCK AT LARGE ON FEDERAL OR STATE HIGHWAYS.

Sec.

69-13-111. Owners of livestock roaming at large liable for damages.

§ 69-13-111. Owners of livestock roaming at large liable for damages.

The owners of livestock which through their owner’s negligence are found on federal or state designated paved highways or highway rights-of-way shall be subject to any damages as a result of wrecks, loss of life or bodily injury as a result of said livestock being on the above designated highways. This section shall not be applicable to any such highway or highway right-of-way or any type of highway or road located on any levee maintained by the Board of Mississippi Levee Commissioners or the board of levee commissioners for the Yazoo-Mississippi Delta through maintenance contracts calling for or permitting pasturage of livestock on levee rights-of-way.

HISTORY: Codes, 1942, § 4876-05; Laws, 1956, ch. 140, § 5; Laws, 1979, ch. 330, eff from and after passage (approved March 1, 1979); Laws, 2020, ch. 459, § 1, eff from and after passage (approved July 8, 2020).

Editor’s Notes — Laws of 2020, ch. 459, § 2, effective July 8, 2020, provides: “SECTION 2. The provisions of this act shall not be applicable to any case filed before July 1, 2020.”

Amendment Notes — The 2020 amendment, effective July 8, 2020, deleted the former second sentence, which read: “The burden shall be on the owner of any such livestock to prove lack of negligence.”

CHAPTER 15.

BOARD OF ANIMAL HEALTH; LIVESTOCK AND ANIMAL DISEASES

Article 1.	Mississippi Board of Animal Health.	69-15-1
Article 7.	Eradication of Cattle Ticks and Other Animal Parasites. ..	69-15-301

ARTICLE 1.

MISSISSIPPI BOARD OF ANIMAL HEALTH.

Sec.		
69-15-2.	Membership of board; appointments; terms; vacancies; advisory council.	
69-15-3.	Office space; adoption of rules and regulations.	

§ 69-15-2. Membership of board; appointments; terms; vacancies; advisory council.

(1) The Mississippi Board of Animal Health is to be composed of the Commissioner of Agriculture and Commerce, the Dean of the College of Veterinary Medicine and the heads of the Animal and Dairy Science and Poultry Science Departments at Mississippi State University of Agriculture and Applied Science and one (1) person appointed by the President of Alcorn State University from its land grant staff as five (5) ex officio members with full

voting rights, and ten (10) other members of the board to be appointed by the Governor as hereinafter provided. The board shall select annually a chairman and vice chairman from any members of the board.

(2) The Governor, with the advice and consent of the Senate, shall appoint eleven (11) other members from the following groups or associations from a written list of recommendations from such groups or associations:

One (1) licensed and practicing veterinarian who holds a Doctor of Veterinary Medicine Degree, from a written list of three (3) recommendations submitted by the Mississippi State Veterinary Medical Association;

One (1) general farmer from a written list of three (3) recommendations submitted by the Mississippi Farm Bureau Federation;

One (1) poultry breeder and producer from a written list of three (3) recommendations submitted by the Mississippi Poultry Association;

One (1) small ruminant breeder and producer from a written list of three (3) recommendations, one (1) recommendation submitted by each of the following: the Mississippi Sheep Producers' Association, the Mississippi Club Goat Association, and the Mississippi Goat Association. If an association fails to timely submit its recommendation, the Governor may appoint the member from the list of recommendations submitted by the other associations;

One (1) beef cattle breeder and producer from a written list of three (3) recommendations submitted by the Mississippi Cattlemen's Association;

One (1) swine breeder and producer from a written list of three (3) recommendations submitted by the Mississippi Pork Producers' Association;

One (1) dairy breeder and producer from a written list of three (3) recommendations submitted by the American Dairy Association of Mississippi;

One (1) horse breeder and producer from a written list of four (4) recommendations, one (1) recommendation submitted by each of the following: the Mississippi Quarter Horse Association, Tennessee Walking Horse Association, Mississippi Cutting Horse Association and Mississippi State Equine Association. If an association fails to timely submit its recommendation, the Governor may appoint the member from the list of recommendations submitted by the other associations;

One (1) catfish breeder and producer from a written list of three (3) recommendations submitted by the Mississippi Catfish Association;

One (1) member of the Mississippi Livestock Auction Association from a written list of three (3) recommendations submitted by the Mississippi Livestock Auction Association.

All members shall take and subscribe to the general oath of office as provided in Section 268, Mississippi Constitution of 1890, and file the same with the Commissioner of Agriculture and Commerce.

(3) Effective August 1, 1968, the dairy producer member shall be appointed for a one-year term; the Livestock Auction Association member shall be appointed for a two-year term; and the meat packer member shall be appointed for a three-year term; the catfish producer member shall be appointed for a four-year term; and the horse producer member shall be appointed for a five-year term.

Effective August 1, 1969, the poultry producer member shall be appointed for a two-year term; on August 1, 1970, the sheep producer member shall be appointed for a three-year term; on August 1, 1971, the swine producing member shall be appointed for a four-year term; on August 1, 1972, the general farmer member shall be appointed for a five-year term; on August 1, 1973, the veterinarian member shall be appointed for a six-year term; and on August 1, 1974, the beef cattle producer member shall be appointed for a seven-year term.

All subsequent appointments shall be for four-year terms, except for appointments to fill vacancies which shall be for the unexpired term only.

(4)(a) “Commissioner” means the Commissioner of Agriculture and Commerce.

(b) “Department” means the Department of Agriculture and Commerce.

(5) On or before July 1, 1998, the board shall appoint, from a written list of not less than three (3) licensed veterinarians submitted by the commissioner, the State Veterinarian.

(6) There is created an advisory council to advise the Board of Animal Health on matters concerning the board. The council shall be composed of the Chairman of the Senate Agriculture Committee, the Chairman of the House Agriculture Committee, and one (1) appointee of the Lieutenant Governor and one (1) appointee of the Speaker of the House of Representatives. The members of the advisory council shall serve in an advisory capacity only. For attending meetings of the council, such legislators shall receive per diem and expenses which shall be paid from the contingent expense funds of their respective houses in the same amounts provided for committee meetings when the Legislature is not in session; however, no per diem or expenses for attending meetings of the council shall be paid while the Legislature is in session. No per diem and expenses shall be paid except for attending meetings of the council without prior approval of the proper committee in their respective houses.

HISTORY: Laws, 1998, ch. 570, § 1; reenacted without change, Laws, 1999, ch. 509 § 1; reenacted without change, Laws, 2003, ch. 352, § 1; Laws, 2008, ch. 529, § 1; Laws, 2017, ch. 305, § 1, eff from and after passage (approved Mar. 6, 2017).

Amendment Notes — The 2017 amendment, effective March 6, 2017, substituted “ten (10) other members” for “eleven (11) other members” in the first sentence of (1); and in (2), deleted “Improvement” following “Poultry” in the fourth paragraph, rewrote the fifth paragraph, which read: “One (1) sheep breeder and producer from a written list of three (3) recommendations submitted by the Mississippi Sheep Producers’ Association,” and deleted the former eleventh paragraph, which read: “One (1) member of the Mississippi Independent Meat Packers’ Association from a written list of three (3) recommendations submitted by the Mississippi Independent Meat Packers’ Association.”

§ 69-15-3. Office space; adoption of rules and regulations.

The Department of Finance and Administration shall provide office space at the seat of the government, as it deems necessary and requisite for the Board of Animal Health. The board shall adopt rules and regulations as it

deems proper to carry out its statutory powers and duties. The rules and regulations shall also prescribe the dates and hours of meetings to be held once a quarter and provide that special meetings shall be called by the chairman at the request of the Commissioner of Agriculture and Commerce, on three (3) days' written notice or by a majority vote of the entire board on three (3) days' written notice.

HISTORY: Codes, Hemingway's 1917, §§ 5490, 5491; 1930, §§ 5412, 5413; 1942, § 4835; Laws, 1908, ch. 106; Laws, 1919, ch. 227; Laws, 1926, ch. 264; Laws, 1944, ch. 246, §§ 1-3; Laws, 1948, ch. 198, §§ 1, 2 (subd. 1, 2); Laws, 1950, ch. 191 (subd. 2); Laws, 1956, ch. 137 (subd. 2); Laws, 1958, ch. 158; Laws, 1962, ch. 163; Laws, 1966, ch. 230; Laws, 1966, ch. 445, § 9; Laws, 1968, ch. 242, § 1; Laws, 1998, ch. 570, § 2; Laws, 2017, ch. 305, § 2, eff from and after passage (approved Mar. 6, 2017).

Amendment Notes — The 2017 amendment, effective March 6, 2017, substituted "to be held once a quarter" for "to be held every other month" in the last sentence.

ARTICLE 7.

ERADICATION OF CATTLE TICKS AND OTHER ANIMAL PARASITES.

Sec.

- | | |
|------------|---|
| 69-15-301. | Duties of Board of Animal Health; assistant executive officer for tick eradication; inspectors, range riders and other employees. |
| 69-15-303. | Repealed. |

§ 69-15-301. Duties of Board of Animal Health; assistant executive officer for tick eradication; inspectors, range riders and other employees.

(1) The work of tick eradication shall be prosecuted by the Board of Animal Health under the following provisions: The State Veterinarian, with the approval and consent of the board, shall hire an assistant executive officer for tick eradication who shall receive a salary of not exceeding Four Thousand Dollars (\$4,000.00) per annum to be fixed by the board, who shall be duly qualified for the work and of recognized ability and experience in tick eradication and who shall have full authority and jurisdiction, subject to the rules and regulations of the Board of Animal Health in the matter, direction and administration of the work of eradication of the Texas and splenic fever and the fever-carrying tick, in the State of Mississippi, until such time as in the judgment of the board it is necessary for the prosecution to a successful conclusion of the campaign of eradicating said ticks and tick fever.

(2) The assistant executive officer shall have for the purpose of eradication of the Texas and splenic fever or fever-carrying tick, all the powers, authority and jurisdiction now conferred by law upon the Executive Officer of the Board of Animal Health, upon the conditions and limitations set forth in this section.

(3) The assistant executive officer shall employ such inspectors and range riders and other employees as may be deemed necessary by the Board of Animal Health for the successful prosecution of the work of eradication of the Texas and splenic fever and fever-carrying tick, the compensation of such inspectors, range riders, and other employees to be fixed by the board and paid out of any appropriation made to the board for tick eradication.

HISTORY: Codes, Hemingway's 1917, § 5492; 1930, § 5414; 1942, § 4837; Laws, 1908, ch. 106; Laws, 1926, ch. 264; Laws, 1928, ch. 61; Laws, 1962, ch. 166, § 1; Laws, 1990, ch. 519, § 7, eff from and after passage (approved April 2, 1990); Laws, 2018, ch. 395, § 15, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment deleted “and in Section 69-15-303, Mississippi Code of 1972” from the end of (2); in (3), deleted “the employment of such inspectors, range riders, and other employees to be subject to the approval of the advisory commission on tick eradication” following “fever-carrying tick” and “subject to the approval of the said advisory commission” following “and other employees to be”; and made minor stylistic changes.

§ 69-15-303. Repealed.

Repealed by Laws, 2018, ch. 395, § 14, eff from and after July 1, 2018.

§ 69-15-303. [Codes, Hemingway's 1917, § 5492; 1930, § 5414; 1942, § 4837; Laws, 1908, ch. 106; Laws, 1926, ch. 264; Laws, 1928, ch. 61; Laws, 1962, ch. 166, § 1, eff from and after passage (approved April 30, 1962).]

Editor's Notes — Former § 69-15-303 created an advisory commission to the Board of Animal Health in all matters related to the eradication of the Texas fever and splenic fever and fever-carrying ticks.

CHAPTER 24.

FERTILIZING MATERIALS AND ADDITIVES

Sec.

69-24-13. Inspection fees; tonnage payments; penalties; disclosure of information.

§ 69-24-13. Inspection fees; tonnage payments; penalties; disclosure of information.

(1) There shall be paid to the commissioner for all soil or plant amendments distributed in this state an inspection fee of Thirty-five Cents (\$.35) per ton. However, products sold in packages of ten (10) pounds or less or one (1) gallon or less shall be subject to an annual inspection fee of Fifty Dollars (\$50.00) in lieu of the Thirty-five Cents (\$.35) per ton fee. The annual inspection fee shall be paid upon date of registration.

(2) Every person who distributes a soil or plant amendment in the state shall file with the commissioner, on forms furnished by him, an annual statement setting forth the number of net tons of each soil or plant amendment distributed in the state during the previous year. The statement shall be due

within thirty (30) days following the reporting year. The statement shall be accompanied by a payment of the inspection fee at the rate of Thirty-five Cents (\$.35) per ton, except as specified in subsection (1) of this section.

(3) When more than one (1) distributor is involved in the distribution of a soil or plant amendment product, the last registrant who distributes to a nonregistrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fees unless the reporting and paying of fees has been made by a prior distributor of the soil or plant amendment product. If the statement is not filed or is filed falsely, or the inspection fee is not paid within thirty (30) days following the reporting year, the commissioner and State Chemist may revoke the registration of the products and a penalty of Ten Dollars (\$10.00) per day for each subsequent day shall be assessed against the registrant. The inspection fee and the penalty shall constitute a debt and become the basis for a judgment against the registrant, which may be collected by the commissioner and in any court of competent jurisdiction without prior demand.

(4) The statement required by this section shall not be a public record, and it shall be a misdemeanor for any person to divulge any information given in the statement which would reveal the business operations of a person or registrant filing the statement; provided, however, that nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of any registrant in any action, suit, or proceeding instituted under this chapter, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the commissioner.

(5) All fees paid to the commissioner for registration, inspection, or penalties for product deficiencies shall be deposited into the General Fund account of the State of Mississippi.

HISTORY: Laws, 1978, ch. 322, § 7, eff from and after July 1, 1978; Laws, 2018, ch. 305, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment, in (1), divided the former first sentence into the first and second sentences by substituting “Thirty-five Cents (\$.35) per ton. However, products” for “Thirty-five Cents (\$.35) per ton; provided, however, that products”; in (2), substituted “an annual statement” for “quarterly statements for periods ending September 30, December 31, March 31 and June 30” and “the previous year” for “such quarter” in the first sentence, and “the reporting year” for “each quarter” in the second sentence; substituted “statement” for “report” and “the reporting year” for “each quarter” in the second sentence of (3); substituted “statement” for “report” three times and “registrant filing the” for “registrant making the” in (4); and made minor stylistic changes throughout.

CHAPTER 25.

PLANTS, PLANT AND BEE DISEASES

Article 1. Division of Plant Industry; Plant Diseases and Pests. 69-25-1

§ 69-25-10		AGRICULTURE, HORTICULTURE, ETC.
Article 2.	Administrative Hearing Procedure for Bureau of Plant Industry	69-25-51
Article 4.	Mississippi Hemp Cultivation Act.	69-25-201

ARTICLE 1.

**DIVISION OF PLANT INDUSTRY; PLANT DISEASES
AND PESTS.**

Sec.
69-25-10. Repealed.

§ 69-25-10. Repealed.

Repealed by its own terms effective July 1, 2016.
 § 69-25-10. [Laws, 2012, ch. 502, § 4; Laws, 2015, ch. 306, § 1, eff from and after July 1, 2015.]

Editor’s Notes — Former § 69-25-10 prohibited the cultivation of certain nonnative plant species for the purpose of fuel production without a special permit.

ARTICLE 2.

**ADMINISTRATIVE HEARING PROCEDURE FOR
BUREAU OF PLANT INDUSTRY.**

Sec.
69-25-51. Alleged violation of rules and regulations of Bureau of Plant Industry; right to hearing; Director of the Bureau of Plant Industry as reviewing officer; determination; penalty.

§ 69-25-51. Alleged violation of rules and regulations of Bureau of Plant Industry; right to hearing; Director of the Bureau of Plant Industry as reviewing officer; determination; penalty.

(1) When any administrative allegation or charge is made against a person for violating the rules and regulations of the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce or the laws under Sections 69-3-1 through 69-3-29, Sections 69-19-1 through 69-19-15, Sections 69-21-101 through 69-21-128, Sections 69-23-1 through 69-23-135, Sections 69-25-1 through 69-25-47, Sections 69-25-101 through 69-25-109, or Sections 69-25-201 through 69-25-221, the Director of the Bureau of Plant Industry, or his designee, shall act as the reviewing officer. The complaint must be in writing, signed by the person making the charge, and filed in the Office of the Bureau of Plant Industry. The department shall send a copy of the complaint and any supporting documents to the person accused along with a summons requiring the accused to respond to the allegations within thirty (30) days. The

notification shall be accomplished by any of the methods provided for in Rule 4 of the Mississippi Rules of Civil Procedure or by certified mail. If the accused does not respond within the thirty-day period, he shall be considered to be in default. Upon receipt of the response and any supporting documents from the accused, the reviewing officer shall determine the merits of the complaint. The reviewing officer may meet informally with the accused and discuss the alleged violation with him.

(2) If the reviewing officer determines that the complaint lacks merit, he may dismiss the complaint.

(3) If the reviewing officer determines that there is substantial evidence that a violation has occurred or if the accused admits to the truth of the allegations upon which the complaint is based, the reviewing officer may impose an appropriate penalty on the accused, which may be any or all of the following:

(a) Issue a warning letter.

(b) Suspend, modify, deny, cancel or revoke any license or permit granted by the department to the accused.

(c) Issue a stop sale order with regard to any pesticide, plant or other material regulated by the department that is mislabeled or otherwise not in compliance with applicable law or regulations.

(d) Require the accused to relabel any pesticide, plant or other material regulated by the department that is mislabeled.

(e) Seize any pesticide, plant or other material regulated by the department and sell, destroy or otherwise dispose of the material and apply the proceeds of the sale to the state's expenses and any fees or penalties levied under this article.

(f) Refuse to register, cancel or suspend the registration of a pesticide, plant or other material that is not in compliance with any applicable law or regulation.

(g) Levy a civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00) for each violation.

In determining the amount of the penalty, the reviewing officer shall consider the appropriateness of the penalty for the particular violation, the effect of the penalty on the person's ability to continue in business and the gravity of the violation.

(4) If the accused requests a hearing with the department, in writing, within thirty (30) days from receipt of the decision of the reviewing officer, the commissioner shall appoint three (3) members of the advisory board to the Bureau of Plant Industry to act as a hearing committee and a hearing shall be scheduled. If the accused fails to request a hearing within the thirty-day period, the decision of the reviewing officer is final.

HISTORY: Laws, 1992, ch. 474, § 1; Laws, 2005, ch. 533, § 1; Laws, 2008, ch. 353, § 1; Laws, 2009, ch. 515, § 17; Laws, 2012, ch. 502, § 2; Laws, 2013, ch. 407, § 4, eff from and after July 1, 2013; Laws, 2020, ch. 413, § 12, eff from and after passage (approved June 29, 2020).

Joint Legislative Committee Notes — Pursuant to Section 1-1-109, the Joint

Legislative Committee on Compilation, Revision and Publication of Legislation corrected errors in the first sentence of (1) by substituting “69-25-47, Sections 69-25-101 through 69-25-109, or Sections 69-25-201 through 69-25-221” for “69-25-47 or Sections 69-25-101 through 69-25-109, Mississippi Code of 1972, or Sections 69-25-201 through 69-25-221.” The Joint Committee ratified the corrections at its October 19, 2020, meeting.

Amendment Notes — The 2013 amendment inserted “Sections 69-3-1 through 69-3-29” in the first sentence of (1).

The 2020 amendment, effective June 29, 2020, inserted “or Sections 69-25-201 through 69-25-221” in (1).

ARTICLE 3.

BEE DISEASES.

§ 69-25-101. Shipment of bees into State; requirement of certificate or permit.

Editor’s Notes — Laws, 2018, ch. 374, § 1, effective March 16, 2018, provides:

“SECTION 1. (1) There is created the Mississippi Honey Producers Advisory Council. The purpose of the advisory council is to review the laws and regulations governing the production of honey in Mississippi to determine if those laws and regulations address the concerns of the industry or if those laws and regulations need revision to address the concerns of the industry, and to prepare and develop its findings and recommendations in a written report to the Legislature.

“(2) The Mississippi Honey Producers Advisory Council shall be composed of ten (10) members of the Executive Board of the Mississippi Beekeepers Association. There shall be two (2) staff members from the Mississippi Department of Agriculture and Commerce, two (2) staff members from the Mississippi State Department of Health, and one (1) staff member from Mississippi State University Extension Service at each meeting of the advisory council to provide technical assistance. The council may seek input from all of the aforementioned state agencies.

“(3) The president of the association shall be the chair of the Mississippi Honey Producers Advisory Council. The chair shall be responsible for calling meetings of the council and conducting the meetings. The council shall elect a vice chair to serve as secretary who shall be responsible for keeping all records and minutes of the advisory council. All members shall be notified in writing of all meetings; such notices shall be mailed or emailed, as determined by the council, at least fifteen (15) days before the date on which a meeting is to be held. Members of the advisory council shall not be compensated or reimbursed for travel expenses. Notice of meetings of the advisory council shall be provided to the Chairman of the Senate Agriculture Committee, the Chairman of the House Agriculture Committee, and the state agencies and institutions referenced in subsection (2) of this section at least fifteen (15) days prior to said meeting.

“(4) Meetings shall be conducted at either the Mississippi Department of Agriculture and Commerce or the Mississippi State Department of Health, depending on meeting space availability. The agencies are directed to work with the chair to provide meeting space. The advisory council shall meet and organize thirty (30) days after the passage of this act.

“(5) A majority of the members of the advisory council shall constitute a quorum. In the selection of the vice chair, and the adoption of rules, minutes, findings and recommendations, an affirmative vote of a majority of the advisory council shall be required.

“(6) No later than November 30, 2018, the council shall report its findings and

recommendation in writing to the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee. After submitting the recommendation and findings required in subsection (1) of this section, the Mississippi Honey Producers Advisory Council shall be dissolved.”

ARTICLE 4.

MISSISSIPPI HEMP CULTIVATION ACT.

Sec.

69-25-201.	Short title; exclusivity.
69-25-203.	Definitions.
69-25-205.	Special fund.
69-25-207.	Licensing and registration.
69-25-209.	Transport of hemp.
69-25-211.	Enforcement.
69-25-213.	Negligent violations.
69-25-215.	Nonnegligent violations.
69-25-217.	Prohibitions.
69-25-219.	General provisions.
69-25-221.	Necessity of surety bond.
69-25-223.	Implementation of provisions of article providing authority to administer Mississippi Hemp Cultivation Act subject to public or private funding; programs administered by Mississippi State University exempt from provisions of article.

§ 69-25-201. Short title; exclusivity.

This article shall be known as the “Mississippi Hemp Cultivation Act.” The regulation of hemp cultivation and processing shall be governed exclusively by the provisions of the Mississippi Hemp Cultivation Act. A municipality, county or other political subdivision of this state shall not enact, adopt or enforce a rule, ordinance, order, resolution or other regulation that allows, prohibits or penalizes the cultivation, production or processing of hemp in this state.

HISTORY: Laws, 2020, ch. 413, § 1, eff from and after passage (approved June 29, 2020).

Editor’s Notes — Laws of 2019, ch. 469, § 4, provides:

“SECTION 4. (1) There is created the Mississippi Hemp Cultivation Task Force which shall be composed of thirteen (13) members as follows:

- “(a) The Commissioner of Agriculture and Commerce or a designee;
- “(b) The President of Mississippi State University or a designee;
- “(c) The President of Alcorn State University or a designee;
- “(d) A director of the University of Mississippi School of Pharmacy National Center for Natural Products Research or a designee;
- “(e) The President of the Delta Council or a designee;
- “(f) A representative of the Mississippi Secretary of State’s office;
- “(g) A representative of the Mississippi Attorney General’s office;
- “(h) The Director of Pharmacy, Mississippi State Department of Health or a designee;
- “(i) A member of the Mississippi House of Representatives designated by the Speaker of the House;
- “(j) A member of the Mississippi Senate designated by the Lieutenant Governor;

“(k) The Commissioner of Public Safety or a designee;

“(l) The President of the Mississippi Farm Bureau Federation or a designee; and

“(m) A designee of the Governor.

“(2) The Commissioner of Agriculture and Commerce, or the Commissioner’s designee, shall chair the task force and shall call the first meeting, at which the task force shall elect a vice chair from its membership and shall adopt rules for transacting its business and keeping records. Members of the task force shall receive a per diem in the amount provided in Section 25-3-69 for each day engaged in the business of the task force. Members of the task force other than the legislative members shall receive reimbursement for travel expenses incurred while engaged in official business of the task force in accordance with Section 25-3-41 and the legislative members of the task force shall receive the expense allowance provided in Section 5-1-47.

“(3) The duties of the task force shall be to:

“(a) Make a comprehensive study of the potential for cultivation of hemp in this state. Reports shall be provided to the Legislature each year at least one (1) month before the convening of the regular session.

“(b) Examine and study approaches taken by other states in the monitoring and regulation of hemp cultivation.

“(c) Study the economic costs and benefits of hemp cultivation, market potential, and potential job creation.

“(4) The Mississippi Department of Agriculture and Commerce shall supply the necessary staff and research assistance to the Task Force in its work.

“(5) This section shall stand repealed on July 1, 2020.”

Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides:

“SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972.”

§ 69-25-203. Definitions.

For purposes of this article, the following words and phrases shall have the meanings set forth below unless the context clearly indicates otherwise:

(a) “Bureau of Plant Industry” means a division of the Mississippi Department of Agriculture and Commerce created under the provision of Section 69-25-3.

(b) “Business entity” means a nonnatural person and includes nonprofit and for profit corporations, partnerships, limited liability corporations, and other legal entities recognized by law.

(c) “Commissioner” means the Commissioner of Agriculture and Commerce of the State of Mississippi. Where applicable under the provisions of this article, “commissioner” shall include the commissioner’s designee.

(d) “Delta-9-tetrahydrocannabinol” means the sum of the percentage by weight of tetrahydrocannabinol acid multiplied by eight hundred seventy-seven thousandths (0.877) plus the percentage by weight of delta-9-tetrahydrocannabinol.

(e) “Department” means the Mississippi Department of Agriculture and Commerce.

(f) “Grower” means a person, business entity, joint venture or cooperative that cultivates, grows or harvests hemp.

(g) “Hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not,

with a delta-9-tetrahydrocannabinol (THC) concentration of not more than three-tenths percent (0.3%) on a dry weight basis that is grown or processed under this article.

(h) “Legal description of land” means Global Position System coordinates and shall also include the metes and bounds to include township, range, and section for the location in which hemp is grown.

(i) “Person” means any person, firm, association, corporation or business entity.

(j) “Processor” means a person, business entity, joint venture or cooperative that receives hemp for processing into commodities, products or hemp seed. A processor also includes any such entity that brokers and/or stores hemp.

(k) “State plan” means the plan contemplated by 7 C.F.R. Part 990 Subpart B that a state must file for approval with the United States Secretary of Agriculture.

(l) “USDA” means the United States Department of Agriculture.

HISTORY: Laws, 2020, ch. 413, § 2, eff from and after passage (approved June 29, 2020).

Editor’s Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: “SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972.”

§ 69-25-205. Special fund.

There shall be established in the State Treasury a special fund for the department to administer the State Plan. The fund shall consist of amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, application fees, registration fees, and any other funds, both public and private, made available for the purposes of this chapter. The fund shall be administered by the department. Unexpended monies remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into the fund.

HISTORY: Laws, 2020, ch. 413, § 3, eff from and after passage (approved June 29, 2020).

Editor’s Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: “SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972.”

§ 69-25-207. Licensing and registration.

(1) Pursuant to the provisions of this article, cultivation and processing of hemp, as defined in Section 69-25-203, are authorized in this state. Cultivation and processing of hemp are subject to regulation by the department and may only be performed by persons or business entities that hold a valid license or registration issued hereunder.

(2) The commissioner shall create a State Plan for submission to and approval by the United States Department of Agriculture and the United States Secretary of Agriculture. The commissioner and department shall promulgate such reasonable regulations as necessary to implement the State Plan and provisions of this article. The commissioner and the department shall be authorized to promulgate any rule or regulation deemed necessary for the administration of the provisions of this article in compliance with any federal law, rule or regulation promulgated by the United States Department of Agriculture.

(3) The department is authorized to accept applications, and issue licenses and/or registrations for all hemp growers and hemp processors. The department shall adopt and enforce all rules and regulations related to those licenses and/or registrations.

(4) All hemp growers must be licensed by the department.

(5) All hemp processors must register with the department.

(6) All licensed holders and registered processors shall keep and maintain crop and/or processing records in accordance with rules and regulations adopted and enforced by the department. The department may subject the required records to inspection. The department may make an inspection for the purpose of ensuring compliance with:

(a) USDA guidelines;

(b) Provisions of this article;

(c) Department rules and regulations;

(d) Any terms or conditions of a license issued hereunder;

(e) Registration with the department; or

(f) A final department order directed to the grower's or processor's hemp operations or activities.

(7) All hemp growers and processors shall be subject to a background investigation conducted by the Department of Public Safety, which shall include both a state and federal background check.

HISTORY: Laws, 2020, ch. 413, § 4, eff from and after passage (approved June 29, 2020).

Editor's Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: "SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972."

§ 69-25-209. Transport of hemp.

Hemp growers must keep a copy of their hemp grower's license in all vehicles used to transport hemp under normal cultivation activities. Any person transporting or delivering hemp for commerce purposes shall have a dated invoice, bill of lading, or manifest in his or her possession during the entire time he or she is transporting or delivering hemp. The invoice, bill of lading, or manifest shall include the following information:

(a) The seller's and the purchaser's license and/or registration number, name and address;

- (b) The specific origin and destination of the hemp being transported;
- (c) The quantity of hemp being transported; and
- (d) Any additional information and/or documentation required by the department.

HISTORY: Laws, 2020, ch. 413, § 5, eff from and after passage (approved June 29, 2020).

Editor's Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: "SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972."

§ 69-25-211. Enforcement.

(1)(a) The commissioner or the commissioner's designee may enter, at reasonable times, upon any public or private property at which hemp is being cultivated or processed for the purpose of determining compliance with this chapter and rules adopted under it. The Director of the Bureau of Plant Industry may apply for, and any judge of a court of competent jurisdiction, may issue a search warrant as is necessary to achieve the purposes of this chapter relating to things, property or places within the court's territorial jurisdiction.

(b) If the commissioner or the commissioner's designee determines that emergency conditions exist requiring immediate action necessary to protect public health or safety of the environment, the commissioner or the commissioner's designee may issue an order stating the existence of such conditions and requiring specific actions be taken to mitigate those conditions without providing prior notice or an adjudication hearing.

(c) Any person to whom such an order is issued shall immediately comply with that order, and may apply to the Director of the Bureau of Plant Industry for an adjudication hearing. Upon receiving an application for an adjudication hearing, the director shall hold the hearing as soon as practicable and not later than thirty (30) days after receipt of the application. On the basis of the hearing, the director shall continue the order in effect, revoke it, or modify it.

(d) In addition to any other available remedies, the commissioner or the Mississippi Attorney General may apply to the circuit court in the county where any provision of this chapter or an order issued under paragraph (b) of this subsection is being violated for an injunction restraining any person from continuing the violation.

(e) An employee of the state or any division, agency, institution thereof involved in the administration and/or enforcement of this article, shall not be subject to prosecution for violations related to possession or transportation of hemp or cannabis in conjunction with the employee's duties arising under this chapter.

(2) In addition to any other liability or penalty provided by law, the department may revoke or refuse to issue or renew a hemp grower license or hemp processor registration and may impose a civil penalty for violations of:

- (a) A license or registration requirement;
 - (b) License or registration terms or conditions;
 - (c) Department rules and regulations relating to growing or processing hemp; or
 - (d) A final order of the department that is specifically directed to the grower's or processor's hemp operations or activities.
- (3) The department may impose administrative penalties for violations under this section in accordance with Section 69-25-51.

HISTORY: Laws, 2020, ch. 413, § 6, eff from and after passage (approved June 29, 2020).

Editor's Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: "SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972."

§ 69-25-213. Negligent violations.

(1) Upon a determination by the commissioner or the commissioner's designee, the following may constitute negligent violations:

- (a) Failing to provide a legal description of land on which the grower produces hemp;
- (b) Failing to obtain a license or other required authorization from the department;
- (c) Failing to register with the department;
- (d) Producing *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol concentration of more than five-tenths percent (0.5%) on a dry weight basis; or
- (e) Any other violation of the State Plan, including any rules and regulations set forth by the department.

(2) **Corrective action plan.**

(a) A hemp grower shall comply with a plan established by the commissioner or the commissioner's designee to correct the negligent violation, including:

- (i) A reasonable date by which the hemp grower shall correct the negligent violation; and
- (ii) A requirement that the hemp grower shall periodically report to the commissioner or the commissioner's designee regarding the compliance with the corrective plan for a period of not less than the next two (2) calendar years.

(b) The department shall notify the Mississippi Bureau of Narcotics of all corrective action plans implemented by the commissioner or the commissioner's designee.

(3) **Result of negligent violation.** A hemp grower that negligently violates the State Plan shall not, as a result of that violation, be subject to any criminal enforcement action by a state, county or local government entity.

(4) **Repeat violations.** A hemp grower that negligently violates the State Plan three (3) times in a five-year period shall be ineligible to produce hemp for a period of five (5) years beginning on the date of the third violation.

HISTORY: Laws, 2020, ch. 413, § 7, eff from and after passage (approved June 29, 2020).

Editor's Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: "SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972."

§ 69-25-215. Nonnegligent violations.

If a hemp grower violates the State Plan, including growing hemp containing a delta-9-tetrahydrocannabinol (THC) concentration that exceeds three-tenths percent (0.3%) on a dry mass basis or a tolerance range as specified by USDA, with a culpable mental state greater than negligence as determined by the department, the commissioner shall immediately report the violation and the hemp grower to the United States Attorney General, the Mississippi Attorney General and the Mississippi Public Safety Commissioner. Such violations shall also be referred to the Mississippi Bureau of Narcotics for investigation. The Bureau of Narcotics may detain, seize and/or destroy the crop and may initiate a criminal case for any violation of this article or the Mississippi Uniform Controlled Substances Law. The Mississippi Attorney General shall, in person or by his or her designee, prosecute all criminal actions related to violations arising under this chapter relating to hemp, on behalf of the State. Violations of the State Plan that involve culpability greater than negligence must be reported to the United States Attorney General and the Mississippi Attorney General. The provisions of Section 69-25-213 shall not apply to nonnegligent violations.

HISTORY: Laws, 2020, ch. 413, § 8, eff from and after passage (approved June 29, 2020).

Editor's Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: "SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972."

§ 69-25-217. Prohibitions.

(1) It shall be unlawful for any person or business entity to:

(a) Violate this chapter or any rules or regulations promulgated under this chapter;

(b) Fail to comply with a corrective action plan issued by the commissioner under Section 69-25-213(2);

(c) Transport hemp or hemp materials in violation of Section 69-25-209 or rules or regulations adopted under this chapter; or

(d) Cultivate or grow hemp with a delta-9-tetrahydrocannabinol (THC) concentration of more than three-tenths percent (0.3%) on a dry weight basis.

(2) Any person or business entity that purposely, knowingly or recklessly violates this provision of this chapter relating to hemp production or processing shall be guilty of a misdemeanor and, upon conviction of the violation, shall

be fined in an amount not to exceed Five Thousand Dollars (\$5,000.00), or sentenced to imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment.

(3) Notwithstanding subsection (2) of this section, if any person or entity purposely, recklessly or knowingly cultivates or grows hemp with a delta-9-tetrahydrocannabinol (THC) concentration of more than one percent (1%) on a dry weight basis that person or entity shall be guilty of a felony punishable by imprisonment for not more than five (5) years, or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both such fine and imprisonment.

(4) For purposes of this section, the terms “purposely”, “knowingly” and “recklessly” have the following meanings:

(a) “Purposefully” means a person acts purposely with respect to a material element of an offense if:

(i) The element involves the nature of his or her conduct or a result thereof, it is his or her conscious object to engage in conduct of that nature or to cause such a result; and

(ii) The element involves the attendant circumstances, he or she is aware of the existence of such circumstances or he or she believes or hopes that they exist.

(b) “Knowingly” means a person acts knowingly with respect to a material element of an offense if:

(i) The element involves the nature of his or her conduct or the attendant circumstances, he or she is aware that his or her conduct is of that nature or that such circumstances exist; and

(ii) The element involves a result of his or her conduct, he or she is aware that it is practically certain that his or her conduct will cause such a result.

(c) “Recklessly” means a person acts recklessly with respect to a material element of an offense when he or she consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his or her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct and the circumstances known to him or her, its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor’s situation.

HISTORY: Laws, 2020, ch. 413, § 9, eff from and after passage (approved June 29, 2020).

Editor’s Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: “SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972.”

§ 69-25-219. General provisions.

(1) Any person convicted of a felony relating to a controlled substance under state or federal law before, on or after the date of enactment of this article [June 29, 2020], shall be ineligible, during the ten-year period following

the date of the conviction to participate in the program established under this article and to produce hemp under any regulations or guidelines issued under this article.

(2) Any person who materially falsifies any information contained in an application to participate in the State Plan established under this article shall be ineligible to participate in the State Plan.

(3) In addition to any inspection conducted, the department may inspect any hemp crop at any time and take a representative composite sample for analysis. It shall be the duty of the department to take such samples and deliver them to the State Chemist for examination and analysis. It shall be the duty of the State Chemist to cause as many analyses to be made of samples delivered to him or her by the department as may be necessary to properly implement the intent of this article. The State Chemist shall make a report of such analyses to the department.

(4) The department shall charge growers and processors a fee or fees as determined by the department in a sufficient amount to cover the costs required to administer and enforce the provisions of this chapter.

HISTORY: Laws, 2020, ch. 413, § 10, eff from and after passage (approved June 29, 2020).

Editor's Notes — Implementation of the provisions of this article that provide the authority to administer the Mississippi Hemp Cultivation Act are subject to legislative appropriation or receipt of funding. See § 69-25-223.

Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides:

“SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972.”

§ 69-25-221. Necessity of surety bond.

Necessity of surety bond. No person shall operate as a hemp processor without first having secured a surety bond pursuant to this section. The commissioner shall promulgate rules and regulations as necessary to require hemp processors to secure a surety bond. A hemp processor may file with the department, in lieu of a surety bond, a certificate of deposit or irrevocable letter of credit from any bank or banking corporation insured by the Federal Deposit Insurance Corporation. Rules and regulations required for certificates of deposit and irrevocable letters of credit shall be promulgated by the commissioner.

HISTORY: Laws, 2020, ch. 413, § 11, eff from and after passage (approved June 29, 2020).

Editor's Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: “SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972.”

§ 69-25-223. Implementation of provisions of article providing authority to administer Mississippi Hemp Cultivation Act subject to public or private funding; programs administered by Mississippi State University exempt from provisions of article.

(1) The provisions of this article which provides authority to the Commissioner of Agriculture and Commerce and the Mississippi Department of Agriculture and Commerce to administer the provisions of the “Mississippi Hemp Cultivation Act,” shall be subject to legislative appropriation or receipt of necessary funding from any private or public entity for purposes of implementation.

(2) The provisions of this article shall not have any effect upon any programs administered by Mississippi State University, which shall remain exempt, as such programs related to the educational, research or testing functions performed by Mississippi State Chemical Laboratory, shall continue to function in accordance with the mission of the university, as approved by the Board of Trustees of State Institutions of Higher Learning.

HISTORY: Laws, 2020, ch. 413, § 16, eff from and after passage (approved June 29, 2020).

Editor’s Notes — Laws of 2020, ch. 413, § 17, effective June 29, 2020, provides: “SECTION 17. Sections 1 through 11 of this act shall be codified in Chapter 25, Title 69, Mississippi Code of 1972.”

CHAPTER 29.

LIVESTOCK BRANDS, THEFT OR LOSS OF LIVESTOCK AND PROTECTIVE ASSOCIATIONS

Article 1.	General Provisions.	69-29-1
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ARTICLE 1.

GENERAL PROVISIONS.

Sec. 69-29-1.	Mississippi Agricultural and Livestock Theft Bureau established; director; employment of investigators; powers, duties and authority of director; vehicles, equipment and supplies; cooperation and assistance of other agencies; timber product defined; timber products theft investigation.
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§ 69-29-1. Mississippi Agricultural and Livestock Theft Bureau established; director; employment of investigators; powers, duties and authority of director; vehicles, equipment and supplies; cooperation and assistance of other agencies; timber product defined; timber products theft investigation.

(1)(a) There is established the Mississippi Agricultural and Livestock Theft Bureau.

(b) The Commissioner of Agriculture and Commerce shall appoint a director of the Mississippi Agricultural and Livestock Theft Bureau. Such director shall have at least five (5) years of law enforcement experience. Such director shall be responsible solely to the supervision of the Commissioner of Agriculture and to no other person or entity. Such director may be discharged only for just cause shown.

(c) The director may employ twelve (12) agricultural and livestock theft investigators. Each investigator shall be certified as a law enforcement officer, successfully completing at least a nine-week training course, in accordance with Section 45-6-11. The curriculum for the training of constables shall not be sufficient for meeting the certification requirements of this paragraph. In the selection of investigators under this section, preference shall be given to persons who have previous law enforcement experience.

(d) The director appointed under this section, under the direction, control and supervision of the commissioner, and the investigators employed under this section shall perform only the duties described in subsection (2) of this section and shall not be assigned any other duties.

(2) The director appointed under this section and the investigators employed under this section shall have the following powers, duties and authority:

(a) To enforce all of the provisions of Sections 69-29-9 and 69-29-11, and particularly those portions requiring persons transporting livestock to have a bill of sale in their possession; to make investigations of violations of such sections and to arrest persons violating same;

(b) To enforce all of the laws of this state enacted for the purpose of preventing the theft of livestock, poultry, timber and agricultural, aquacultural and timber products and implements; to make investigations of violations thereof and to arrest persons violating same;

(c) To cooperate with all regularly constituted law enforcement officers relative to the matters herein set forth;

(d) To serve warrants and other process emanating from any court of lawful jurisdiction, including search warrants, in all matters herein set forth;

(e) To carry proper credentials evidencing their authority, which shall be exhibited to any person making demand therefor;

(f) To make arrests without warrant in all matters herein set forth in

cases where same is authorized under the constitutional and general laws of this state;

(g) To handle the registration of brands of cattle and livestock;

(h) To investigate, prevent, apprehend and arrest those persons anywhere in the state who are violating any of the laws administered by the Department of Agriculture and Commerce, including, but not limited to, all agriculture-related crimes;

(i) To access and examine records of any person, business or entity that harvests, loads, carries, receives or manufactures timber products as defined in this section. Each such person or entity shall permit the director or any investigator of the Mississippi Agricultural and Livestock Theft Bureau to examine records of the sale, transfer or purchase of timber or timber products, including, but not limited to, contracts, load tickets, settlement sheets, drivers' logs, invoices, checks and any other records or documents related to an ongoing investigation of the Mississippi Agricultural and Livestock Theft Bureau;

(j) To conduct training for law enforcement regarding laws enforced by the bureau and to assist any other law enforcement agencies in responding to matters that may be related to agriculture and commerce in the State of Mississippi and in cases of natural disasters or other disasters to respond as needed or as requested by other agencies.

(3) The Commissioner of Agriculture and Commerce shall furnish such investigators with such vehicles, equipment and supplies as may be necessary. All expenses of same, and all other expenses incurred in the administration of this section, shall be paid from such appropriation as may be made by the Legislature.

(4) The Mississippi Department of Revenue and its agents and employees shall cooperate with such investigators by furnishing to them information as to any possible or suspected violations of any of the laws mentioned herein, including specifically Section 69-29-27, and in any other lawful manner.

(5) The conservation officers of the Department of Wildlife, Fisheries and Parks are authorized to cooperate with and assist the agricultural and livestock theft investigators in the enforcement and apprehension of violators of laws regarding agricultural and livestock theft.

(6) The Mississippi Forestry Commission employees are excluded from any timber and timber products theft investigative responsibilities except when technical expertise is needed and requested through the State Forester or his designee.

(7) For the purposes of this section, "timber product" means timber of all kinds, species or sizes, including, but not limited to, logs, lumber, poles, pilings, posts, blocks, bolts, cordwood and pulpwood, pine stumpwood, pine knots or other distillate wood, crossties, turpentine (crude gum), pine straw, firewood and all other products derived from timber or trees that have a sale or commercial value.

HISTORY: Codes, 1942, § 2025.5; Laws, 1950, ch. 394, §§ 1-4; Laws, 1952, ch.

168, § 1, 2 (¶¶ 1 and 2); Laws, 1962, ch. 154; Laws, 1974, ch. 569, § 22; Laws, 1993, ch. 508, § 1; Laws, 1997, ch. 450, § 1; Laws, 1998, ch. 386, § 1; Laws, 2004, ch. 419, § 1, eff from and after July 1, 2004; Laws, 2020, ch. 417, § 2, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in (1)(c), rewrote the first sentence, which read: “The director may employ nine (9) agricultural and livestock theft investigators, one (1) from each highway patrol district, and each investigator is required to reside within the highway patrol district from which he or she is selected”; in (2), added (j) and made related minor punctuation changes; and in (4), substituted “Department of Revenue” for “State Tax Commission.”

CHAPTER 34.

MILK PRODUCERS TRANSPORTATION COST ASSISTANCE LOAN PROGRAM

Sec.

69-34-1. Repealed.

§ 69-34-1. Repealed.

Repealed by Laws, 2009, ch. 389, § 1, eff from and after December 31, 2012.

§ 69-34-1. [Laws, 2007, ch. 571, § 1; Laws, 2009, ch. 389, § 1, eff from and after July 1, 2009.]

Editor’s Notes — Former § 69-34-1 created the Milk Producers Transportation Cost Assistance Loan Fund.

CHAPTER 37.

MISSISSIPPI BOLL WEEVIL MANAGEMENT ACT

Sec.

69-37-17. Referenda, at request of corporation, as to assessments on cotton growers; character and disposition of funds assessed; Mississippi Boll Weevil Management Corporation Trust Fund [Paragraph (8)(b) repealed effective July 1, 2023].

§ 69-37-17. Referenda, at request of corporation, as to assessments on cotton growers; character and disposition of funds assessed; Mississippi Boll Weevil Management Corporation Trust Fund [Paragraph (8)(b) repealed effective July 1, 2023].

(1) At the request of the corporation, the bureau shall authorize a statewide referendum among all Mississippi cotton growers on the question of whether an assessment, not to exceed One Dollar (\$1.00) per acre, shall be levied upon all cotton producers to offset, in whole or in part, the cost of

maintaining the corporation, conducting referenda, and/or conducting a program to collect data and information on boll weevil populations and control costs. Any assessments levied for data-collecting programs as a result of the referendum shall be in addition to assessments being collected to support any other boll weevil management programs in the state.

(2) At the request of the corporation, the bureau shall authorize a statewide referendum among all Mississippi cotton growers on the question of whether an assessment, not to exceed Twelve Dollars (\$12.00) per acre, shall be levied upon all cotton growers to offset, in whole or in part, the cost of managing boll weevil suppression, pre-eradication, eradication, or post-eradication programs authorized by this chapter or by any other law of this state. The programs shall be designed on a statewide basis.

(3) The assessment levied under this chapter shall be based upon the level of boll weevil infestation and the anticipated cost of conducting the proposed program, as determined by available scientific data, and the number of acres of cotton planted in the specified management zone. The maximum amount of the assessment, the period of time for which it shall be levied, how it shall be levied, and when it shall be paid shall be determined by the bureau and the board and established by regulations according to this section. The maximum amount of the assessment, the period of time for which it will be levied, and when the payment is due shall appear on all ballots for the referenda authorized by subsections (1) and (2) of this section.

(4) All cotton growers having membership in a local cotton growers association shall be entitled to vote in any referendum authorized by subsections (1) and (2) of this section, and the bureau, after consultation with the corporation, shall determine any questions of eligibility to vote. A cotton grower must be growing cotton within this state and be a member of a local cotton growers association in order to be eligible to vote in elections and referenda concerning boll weevil management practices.

(5) Each eligible cotton grower shall be mailed a ballot upon which to cast a vote for or against the boll weevil suppression, pre-eradication, eradication or post-eradication program.

(6) Passage of a referendum under subsection (1) or (2) of this section shall require that at least twenty percent (20%) of the registered cotton growers vote in the referendum and that a majority of those voting statewide approve the referendum.

(7)(a) The assessments collected by the department under this chapter shall be promptly remitted to the State Treasury on behalf of the corporation in the special fund established in paragraph (b) of this subsection to be held in trust for the use and benefit of the corporation in administering the designated boll weevil management program through the suppression, pre-eradication, eradication or post-eradication of boll weevils.

(b) There is created within the State Treasury a special fund to be designated the "Mississippi Boll Weevil Management Corporation Trust Fund" into which shall be deposited all the revenues collected by the department for assessments levied under the provisions of this section.

Monies in the fund shall be disbursed upon warrants issued by the State Fiscal Officer upon requisitions signed by the corporation's board. Monies in the fund shall remain inviolate and any unexpended amounts remaining in the fund at the end of the fiscal year, and any interest earned thereon, shall be divested to the corporation.

(8)(a) The corporation shall provide to the department an annual audit of its accounts performed by a certified public accountant.

(b)(i) The corporation shall provide the annual audit no later than November 15 for the preceding calendar year.

(ii) This paragraph (b) shall stand repealed on July 1, 2023.

(9) The assessments collected by the department under this chapter shall not be considered as "state" funds.

(10) Upon completion or termination of a program, any unused funds shall be transferred to and deposited in the Boll Weevil Management Fund created under Section 69-37-39, for the purpose of being used if there is a future occurrence of a boll weevil outbreak in the state.

HISTORY: Laws, 1993, ch. 345, § 9; Laws, 2010, ch. 524, § 9; Laws, 2012, ch. 453, § 1; Laws, 2016, ch. 400, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 320, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment extended the date of the repealer for paragraph (8)(b) by substituting "July 1, 2020" for "July 1, 2016" in (b)(ii).

The 2020 amendment extended the date of the repealer for paragraph (8)(b) by substituting "July 1, 2023" for "July 1, 2020" in (8)(b)(ii).

CHAPTER 45.

MISSISSIPPI AGRICULTURAL PROMOTIONS PROGRAM ACT

Sec.

69-45-5. Definitions.

69-45-11. Registration of participants; annual marketing assessment; funding promotions program.

69-45-13. Creation of Mississippi Agricultural Promotions Fund.

§ 69-45-5. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

(a) "Commissioner" means the Commissioner of Agriculture and Commerce.

(b) "Department" means the Department of Agriculture and Commerce.

(c) "Person" means an individual, firm, partnership, corporation, association, business, trust, legal representative or any other business unit.

(d) "Reproduce" means to stencil, emboss, print, engrave, impress, imprint, lithograph or duplicate in any manner or to cause any such acts to be done.

(e) “Agricultural product” means any product that is at least fifty-one percent (51%) grown, processed or manufactured in the State of Mississippi.

(f) “Division” means the Division of Market Development within the Department of Agriculture and Commerce.

The words “logo” and “program,” whenever used in this chapter, shall include the plural as well as the singular.

HISTORY: Laws, 1999, ch. 509, § 11; Laws, 2014, ch. 356, § 1, eff from and after passage (approved Mar. 17, 2014).

Amendment Notes — The 2014 amendment added the last paragraph.

§ 69-45-11. Registration of participants; annual marketing assessment; funding promotions program.

(1) Any person or business who participates in the Mississippi Agricultural Promotions Program shall register annually with the department on forms prescribed by the department. The department is authorized to charge an annual marketing assessment to defray costs and expenses associated with the program. The department serves to promote agriculture products in the state; thus, it assumes no legal liability by registering these persons or businesses.

(2)(a) The department may accept, budget, receive and expend funds from any source to implement, market and promote the program;

(b) The department may allow a federal, state or local governmental entity or a public, private, commercial or charitable entity to use, publish or advertise the entity’s name on department property in its publications;

(c) Any funds received from this advertising shall be retained by the department and expended to market and promote the Mississippi Agricultural Promotions Program; and

(d) The department may accept, budget, receive and expend these funds in accordance with rules and regulations of the Department of Finance and Administration in the manner consistent with the escalation of federal funds.

HISTORY: Laws, 1999, ch. 509, § 14; Laws, 2016, ch. 320, § 1, eff from and after passage (approved Apr. 4, 2016).

Amendment Notes — The 2016 amendment rewrote the section, which read: “Any person who participates in the Mississippi Agricultural Promotions Program shall register annually with the department in a form and manner as required by the department. Each person shall renew his registration by July 1 of each year.”

§ 69-45-13. Creation of Mississippi Agricultural Promotions Fund.

There is created a special fund to be designated as the “Mississippi Agricultural Promotions Fund” within the State Treasury to receive all monies related to the Mississippi Agricultural Promotions Program. Monies deposited

in the fund shall be expended, upon legislative appropriations, and upon requisition therefor by the Commissioner of Agriculture, for the purposes of implementing, marketing and promoting the Mississippi Agricultural Promotions Program. Unexpended amounts remaining in the fund at the end of the fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

HISTORY: Laws, 1999, ch. 509, § 15; Laws, 2016, ch. 320, § 2, eff from and after passage (approved Apr. 4, 2016).

Amendment Notes — The 2016 amendment substituted “for the purposes of implementing, marketing and promoting the Mississippi” for “for the sole purpose of implementing the Mississippi” in the second sentence.

CHAPTER 47.

ORGANIC CERTIFICATION PROGRAM

Sec.

69-47-1. Repealed.

69-47-5 through 69-47-9. Repealed.

69-47-13. Repealed.

69-47-17 through 69-47-23. Repealed.

69-47-27. Repealed.

§ 69-47-1. Repealed.

Repealed by Laws of 2011, ch. 482, § 13, effective July 1, 2013.

§ 69-47-1. [Laws, 2000, ch. 600, § 1; Laws, 2003, ch. 480, § 1; Laws, 2011, ch. 482, § 1, eff from and after passage (approved Apr. 4, 2011).]

Editor's Notes — Former § 69-47-1 provided definitions of terms used in Chapter 47, Title 69.

§§ 69-47-5 through 69-47-9. Repealed.

Repealed by Laws of 2011, ch. 482, § 13, effective July 1, 2013.

§ 69-47-5. [Laws, 2000, ch. 600, § 3; Laws, 2003, ch. 480, § 3; Laws, 2004, ch. 497, § 1; Laws, 2011, ch. 482, § 2, eff from and after passage (approved Apr. 4, 2011).]

§ 69-47-7. [Laws, 2000, ch. 600, § 4; Laws, 2011, ch. 482, § 3, eff from and after passage (approved Apr. 4, 2011).]

§ 69-47-9. [Laws, 2000, ch. 600, § 5; Laws, 2011, ch. 482, § 4, eff from and after passage (approved Apr. 4, 2011).]

Editor's Notes — Former § 69-47-5 pertained to the certification required for the sale of organic food.

Former § 69-47-7 required producers to avoid pesticides or other contaminating residues on agricultural products sold or labeled organic.

Former § 69-47-9 provided that only crops that had been free from use of prohibited

pesticides for at least three years could be certified as organic and provided for a "transition to organic" certification during that three-year period.

§ 69-47-13. Repealed.

Repealed by Laws of 2011, ch. 482, § 13, effective July 1, 2013.

§ 69-47-13. [Laws, 2000, ch. 600, § 7; Laws, 2011, ch. 482, § 5, eff from and after passage (approved Apr. 4, 2011..)]

Editor's Notes — Former § 69-47-13 pertained to records to be kept by producers making application for certification.

§§ 69-47-17 through 69-47-23. Repealed.

Repealed by Laws of 2011, ch. 482, § 13, effective July 1, 2013.

§ 69-41-17. [Laws, 2000, ch. 600, § 9; Laws, 2004, ch. 497, § 2; Laws, 2011, ch. 482, § 6, eff from and after passage (approved Apr. 4, 2011..)]

§ 69-41-19. [Laws, 2000, ch. 600, § 10; Laws, 2011, ch. 482, § 7, eff from and after passage (approved Apr. 4, 2011..)]

§ 69-41-21. [Laws, 2000, ch. 600, § 11; Laws, 2011, ch. 482, § 8, eff from and after passage (approved Apr. 4, 2011..)]

§ 69-41-23. [Laws, 2000, ch. 600, § 12; Laws, 2011, ch. 482, § 9, eff from and after passage (approved Apr. 4, 2011..)]

Editor's Notes — Former § 69-47-17 pertained to applications for certification.

Former § 69-47-19 pertained to conditions applicable to the retail sale of organic products and requirements regarding the prevention of commingling of organic and nonorganic products.

Former § 69-47-21 prohibited the certification of drugs or drug ingredients under Chapter 47, Title 69, or the use of a Mississippi certified organic mark on any product or ingredient that is regulated as a drug.

Former § 69-47-23 pertained to inspections of certified productions, processors, retailers, distributors and applicants for certification during times when normal production, post-harvest or sales activity could be observed.

§ 69-47-27. Repealed.

Repealed by Laws of 2011, ch. 482, § 13, effective July 1, 2013.

§ 69-47-27. [Laws, 2000, ch. 600, § 14; Laws, 2011, ch. 482, § 10, eff from and after passage (approved Apr. 4, 2011..)]

Editor's Notes — Former § 69-47-27 defined prohibited acts for purposes of this chapter.

CHAPTER 53.

AGRITOURISM

Sec.

69-53-9. Repealed.

§ 69-53-1. Definitions.

HISTORY: Laws, 2012, ch. 418, § 1, eff from and after passage (approved Apr. 18, 2012).

Editor's Notes — This section heading is set out to reflect the repeal of the repealer for this section, formerly found in Section 69-53-9, effective March 5, 2018.

§ 69-53-3. Agritourism activity liability.

HISTORY: Laws, 2012, ch. 418, § 2, eff from and after passage (approved Apr. 18, 2012).

Editor's Notes — This section heading is set out to reflect the repeal of the repealer for this section, formerly found in Section 69-53-9, effective March 5, 2018.

§ 69-53-5. Warning notice.

HISTORY: Laws, 2012, ch. 418, § 3, eff from and after passage (approved Apr. 18, 2012).

Editor's Notes — This section heading is set out to reflect the repeal of the repealer for this section, formerly found in Section 69-53-9, effective March 5, 2018.

§ 69-53-7. Registration of agritourism professionals.

HISTORY: Laws, 2012, ch. 418, § 4, eff from and after passage (approved Apr. 18, 2012).

Editor's Notes — This section heading is set out to reflect the repeal of the repealer for this section, formerly found in Section 69-53-9, effective March 5, 2018.

§ 69-53-9. Repealed.

Repealed by Laws, 2018, ch. 315, § 1, eff from and after passage (approved March 5, 2018).

§ 69-53-9. [Laws, 2012, ch. 418, § 5; Laws, 2014, ch. 355, § 1, eff from and after passage (approved Mar. 17, 2014).]

Editor's Notes — Former § 69-53-9 was the repealer for §§ 69-53-1 through 69-53-7, effective July 1, 2018.

